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PROBLEMS OF
LOCAL GOVERNMENT
IN ENGLAND AND
WALES

BY
FRANK JESSUP

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PREFACE

‘It generally argues some degree of natural impotence of mind, or some want of knowledge of the world, to hazard plans of government except from a seat of authority. Propositions are made, not only ineffectually, but somewhat disreputably, when the minds of men are not properly disposed for their reception; and for my part, I am not ambitious of ridicule, not absolutely a candidate for disgrace.’ I am no more ambitious of ridicule than Burke, yet I have ventured in this book to put forward certain views on local government a few of which may be novel and some of which are certainly unfashionable. I have done so because I believe that local government has reached a critical stage in its development; either it will become a vital and humanizing element tempering the new forms of collective regulation towards which we are groping our way, or it will soon disappear altogether. The former is infinitely the preferable, although the more difficult, alternative, the latter the one to which in fact we seem to be drifting.

Except in so far as it is necessary to explain the problems of the system, no attempt has been made to describe the structure and working of local government, since that has been done in a number of books, amongst the most recent and best being Mr J. H. Warren’s *The English Local Government System* and

Mr Eric Jackson's *Local Government in England and Wales*.

This book grew out of talks to members of the Forces during the war, and no doubt many of the ideas here expressed could be traced back to those discussions. Still more had their beginnings in innumerable conversations with members of local authorities and with fellow local government officers on the problems of the cause which we serve. Where so many have been so helpful, often unconsciously, it would be invidious to mention names. Naturally I have been most influenced by those aspects of local government met with at first hand, and I am conscious that local government's infinite variety makes generalization dangerous, for what is true of one place or one time may not hold for other places or other times. But I must make it clear that none of the shortcomings in the local government system to which attention is drawn here is peculiarly exhibited by any of the local authorities with whom I have had the honour to be associated—indeed, I believe the contrary to be nearer to the truth.

F. J.

Midsummer, 1948

CHAPTER I

THE CRISIS IN LOCAL GOVERNMENT

THE Chinese, according to the editors of *British Way and Purpose* pamphlet No. 1, the first of the series of civics textbooks extemporized by the British Army during the war, write crisis as two characters, 'danger' plus 'opportunity'. It is in that dual sense that English local government now faces a crisis. The danger is twofold: first, that local government, in its present form, may be incapable of playing its allotted part in bringing about the social reforms that the country as a whole is pledged to, with the result that hoped-for improvements may be delayed, or stultified; and, secondly, that local government may be submerged and finally disappear beneath the tide now set towards State totalitarianism. The opportunity is likewise twofold, the obverse of this twofold danger: first, local government can be a singularly effective instrument in translating social reforms from paper plans into actuality; and second, properly developed it may prove to be the device whereby a *via media* can be found between, on the one hand, that form of government which, by pervasive and strict control, ensures something like equality at the price of freedom, and, at the other extreme, the method of *laissez-faire* which offers a specious appearance of freedom but is a denial of

social justice. Political organization in societies small enough for the individual not to be lost in the group is the only hope of reconciling liberty with equality.

On the score of material progress much can be placed to the credit of English local government during the last hundred years. Public health, housing, education, police, highways and a dozen other services, built up since the beginning of Queen Victoria's reign, are an achievement which, although admittedly shot through with imperfections, it would be insular prejudice to decry. Yet few knowledgeable people can pretend to feel satisfied about the present functioning of the system. It is criticized often enough for the wrong reasons; by the man in the street—or rather in the rateable hereditament—because the rates go up; by the pharisees amongst the intelligentsia who contemptuously stand aloof, and will not give their help; by the doctor or the schoolmaster employed by a local authority who fears (perhaps not always without reason) for his professional independence; by the merchant who sees a trade rival in municipal commercial enterprise. Criticism from some of these quarters is frequent, loudly expressed, and rarely thoughtful; informed criticism, on the other hand, is unfortunately expressed with such delicacy that it acquires only a limited currency. The result is that public attention concentrates on certain superficial shortcomings, and too little thought is given to the fundamental problems with which local government is now faced. The crucial problems can be reduced to two: the finding of a

sufficient number of suitable men and women, both as elected representatives and as officials, to work the machinery of local government, and the availability of adequate financial resources. We shall return to these problems later, as well as noting others which, although less fundamental, are none the less weighty; but for the moment it is enough to emphasize that these two unfulfilled needs would be of progressively serious importance even if there were no question of the scope of local government services being widened. But if its scope is to be enlarged local government must be strengthened, above all in these two particulars. If that is not done, either many of the social services, far from improving, will collapse with the local government system itself, or, more probably—an alternative less disastrous than the first but nevertheless unfortunate—the administration of the social services will pass to the central government, leaving local government possibly a picturesque but an impotent historical survival. Moreover, thanks to the way in which we change our constitution, retaining outward forms whilst transforming and transferring powers and functions, local government, as a vital organism, may have completed its demise before there has been any general recognition of the symptoms of approaching dissolution.

The tendency towards centralization, at the expense of local government, already exists and has gathered momentum during the last few years. Before the war the State was more and more evincing

a widely embracing concern for the life of its individual members, and the conditions of war-time made an extension of its activities not only possible with general consent, but also essential. To question this centrifugal tendency, this movement towards the form, even if (at least, not intentionally) towards the spirit of the totalitarian State, is often taken to be a sign of the 'reactionary', of the self-satisfied, unimaginative and unadventurous mind. It is true that many of the loudest protests against this trend are voiced by those who have themselves been amongst fortune's favourites: who have not lived in squalid homes in drab surroundings, or, worse, sought in vain for any place to live; who have not gone permanently hungry; who have not known the deadening influence of unemployment or the indignity and insecurity of casual work; who have not known the frustration that is born of a sense of educational opportunities withheld; who have not had to watch sick wife or child suffer from want of proper medical attention; who have undergone none of these experiences, and lack the sympathy which seeks to alleviate the lot of those to whom they are the staple of everyday life. It is indeed easier for those on whom fortune has smiled to see the dangers rather than the advantages of the State's increasing concern for the well-being of the individual, yet if the choice were between State totalitarianism, on the one side, and mass unemployment, bad housing, hunger, and mass ill-health on the other, those with full stomachs and a secure status in the community who, on behalf of

their fellow-men, preferred spiritual freedom born of State non-intervention to the material benefits of totalitarianism must be either more than human or less than humane. Fortunately, no such ineluctable choice faces us. We can, if we will, achieve social security, within reason, without paying the price of totalitarianism. But it must be recognized that social security such as men and women have a right to expect can be achieved only by widening the areas over which men take common action, that the State is usually the machine through which in large matters men act in common, and that the resulting increase in State activity does involve dangers. Because these dangers have sometimes been exaggerated in ill-considered criticism, prompted often by anti-social motives, it would be folly to deny their existence or to ignore them.

For it is not merely a matter of the State's extending its own sphere of activities. Concurrently with this process, the ability of the organizations within the State (the voluntary organizations in the widest sense of the term) to act as a limiting influence on the scope of State action is waning. Many will deplore, but few will deny that the influence of the Churches has declined. Other great voluntary organizations have become largely dependent upon State support—the Universities, for example; how could they exist to-day without State subventions, and what likelihood is there that those subventions would continue if the Universities felt obliged to expound a doctrine fundamentally opposed to that

officially proclaimed by the organized authority of the State? Still other voluntary organizations, of which the Trade Unions are a conspicuous instance, have become so admirably adapted to government use, as pieces of organization, that they have become almost an extension of the governmental machine, at the same time forfeiting the support of some of their members. So the State is left, in an ever-growing number of fields, without a competitor. Monopoly and its dangers is a fashionable topic of discussion; even in government—perhaps especially in government—monopoly has its risks.

But it is well from time to time to turn from theoretical and abstract considerations to an examination of the practical issues involved. What actual effect has this extension of the State's activities upon the machinery of government? It increases Parliament's legislative activities, but even more the power of the Executive.¹ The tendency for Parliament to legislate in outline, leaving the details to be filled in by the Executive, is growing, as all the recent statutes dealing with social services demonstrate. At the same time the Executive has acquired in many matters judicial and interpretative functions which

¹ Our nomenclature here is unsatisfactory: the executive and administrative functions of government are to be distinguished, the former, an inferior element, consisting in the carrying out of instructions, whilst the latter involves determining issues and giving instructions. The Executive comprises those *organs* of government that are neither part of the Legislature nor of the Judiciary; but the most important *functions* of the Executive are administrative, not executive.

for long have been regarded as peculiarly within the province of the Courts of Law. The Executive therefore has not only been entrusted with administrative control over a wider field, but also has assumed far-reaching legislative and judicial powers. Admittedly no clear-cut distinction between the legislative, administrative, and judicial functions is possible; the three functions involve an essential common element, an exercise of discretion in determining a question, in legislation the question being a general one and the discretion at large whereas in adjudication the question is a particular one and the discretion limited. Administration, standing between the other two, inevitably shades off into minor legislation, on the one hand, and on the other, into the judicial exercise of discretion according to certain recognized conventions. However, although the lines of demarcation are blurred, the distinguishing of the three aspects of government has not been a mere academic exercise but has had important results in shaping the institutions of government. It has led to the tradition that the three functions should be entrusted to different bodies because, in Lord Acton's words: 'Liberty depends upon the division of power. . . . To keep asunder the agents [*sc.* of power] one must divide the sources; that is, one must maintain, or create, separate administrative bodies.' Many still believe that the tradition is sound, and that to concentrate over-might in the Executive is to invite trouble. It is not that the Executive aspect of government, as such, is sinister; regarded as an

abstraction it is neutral, tending neither towards virtue nor towards vice; but in another sense it is not an abstraction but a comparatively small group of men, consisting effectively of the political Heads of Government Departments and a few hundred senior civil servants. It is they who in fact are acquiring greater and greater power to order and regulate, from the loftiest motives, the lives of their fellow-men. To regard this enlargement of the Executive's sphere of action as the outcome of a deep conspiracy by a clique of self-seeking men, avid of power, is ludicrously wide of the mark. In moral standards our leading politicians and civil servants certainly do not fall below, and in intellectual ability they far surpass the contemporary norm. The fault—if fault it be—lies not in them but in their stars. It is the inevitable consequence of a more generously felt collective concern for the well-being of the individual citizen coupled with a system of government which canalizes that concern in such a way as to augment the controlling power vested in a small group of men.

Not that this group—this aristocracy—has shown any tendency to use its powers for selfish ends or without enlightenment. But history shows few, if any, examples of individual men or groups who have been able, over a long period, to resist the corrupting influence of power, and it is a little naïve to assume that our Executive, alone of groups so circumstanced, will be able to resist the temptation in its subtler forms. At least if we decide to take the risk we should

do so with our eyes open; but if serious thought were given to the problem probably each man would decide that whilst he himself, set in a position of authority, would fortunately escape its corrupting influence (for how many of us regard it as conceivable that Acton's dictum could ever apply to ourselves?) yet he would not venture to hazard the same assumption of other men. 'Given an official caste, however selected', said Earl Russell in 1918, 'there are bound to be a set of men whose whole instincts will drive them towards tyranny. Together with the natural love of power, they will have a rooted conviction (visible now in the higher ranks of the Civil Service) that they alone know enough to be able to judge what is for the good of the community.' So it is not merely a matter of avoiding the establishment of a new tyranny, but also the danger of creating a civilization in which the part of the praiseworthy citizen will be to submit passively whilst the benevolent experts administer what they regard (probably rightly) as good for him. Such a civilization is inconsistent with the purpose and dignity of man as Western Christendom has conceived them. Each man, if he is to find contentment, must sooner or later come to terms with life, and in that he must make his own bargain. Long ago the attempt was abandoned to dictate to all men, in the name of religion, the terms on which life must be lived; are we now, in the name of a well-meaning humanism, in danger of fettering men's consciences and freedom as narrowly as the Churches ever did?

Therefore, it is the part of prudence to avoid the risks attendant upon the concentration of over-great authority in the Executive if there are other means whereby the government of a highly complex community can be carried on and the execution of necessary social reforms assured. Alternative means are possible, but they do not simply happen; they need to be deliberately *devised*. 'A democratic people', said de Tocqueville, 'tends towards centralization as it were by instinct. It arrives at provincial institutions only by reflection.' The counterbalancing forces will not come into being automatically, but, by taking thought and by deliberate action, we could achieve the end desired, by a rational distribution of the administrative function not only amongst a larger number of men, but also amongst bodies with different backgrounds and different economic, social, and educational references. A group of such bodies, each with its recognized status and function, working together in harmony, or even with occasional discord, is a more valuable political conception than that of a powerful unitary government. In the field of industrial organization the theories of the syndicalists are not without their attractions, and the idea of the corporate State, in spite of its blatant misapplication in Mussolini's Italy, may prove a seed from which new and fruitful developments in the adjustment of individual and group relations yet may spring. Leaving those possibly exotic considerations aside, the English people have the opportunity of demonstrating once more their genius for the

adaptation of the organs of government to fit new conditions by bringing about a renaissance of our indigenous local government system to offset the dangers and drawbacks of increased State activity. It is true that such a development could not reduce below a certain minimum the control over the individual's right to do as he pleases with his own. The diminution of certain liberties is the price which we pay—and the terms are reasonable—for a more equitable distribution and a more secure possession of rights. But the revival of genuine local government should ensure that the irreducible quantum of control is exercised most nearly in accord with the wishes of the people, and that it is exercised humanely, with a constant remembrance that administration is merely a means to an end, and that the stuff upon which administration acts is men and women, with all the hopes and fears, prejudices and predilections that the human race is prone to.

Two objections are likely to be made to the transfer of administrative functions from central to local government, both rooted in the real or assumed inefficiency of the latter.

The first objection comes from those who believe that only a strongly centralized government can provide the dynamic necessary to launch reforms and the determination needed to carry improvements through to completion. Satisfactory conditions under which men can live and earn their livelihood, they would argue, are more important than any nice theories about the nature and means of government,

and the only way to secure satisfactory conditions is through the consistently purposive action of a group of experts, accountable no doubt to a democratically elected assembly, but endowed with wide powers to do whatever they think best calculated to promote the public good. Such a doctrine is rarely explicitly stated, but is implicit in much current thinking on the subject of social progress. To reject the notion as undemocratic is easy but unprofitable. It does contain elements of truth, unpalatable though they may be; the man who is hungry or homeless will prefer any system of government that gives him food and a roof over his head to the most democratic government that fails to help him solve his problems. It would take too long and it is outside the scope of this book to show why the doctrine is nevertheless unsound—that has been done often and ably—and perhaps here it is sufficient to suggest that, even if the infallibility of experts were assured and even if control by a strong central Executive were the most efficient governmental machine that could be devised (and that is far from certain) efficiency is not the sole desideratum of good government.

The second objection runs something like this: so far the argument for making greater use of local government in the distribution of the wider powers which the State inevitably, directly or indirectly, is coming to wield has been based on *a priori* grounds, and on such grounds a superficially attractive theory can no doubt be built up; but examine local authorities as they actually function now—can it be said

honestly that the theory survives the *a posteriori* test? Unfortunately it is all too true that local government as at present practised abounds in imperfections. There can be few people intimately connected with the system who have not, after some particularly depressing experience, asked themselves whether after all it would not be better to allow local government to come earlier rather than later to the demise which its present deficiencies seem to indicate as its destiny. However, some comfort may be gained from the reflection that others, with an equally intimate knowledge of other and even more august governmental agencies, not excepting Parliament itself, have on occasion been driven to similar melancholy thoughts about those agencies, which nevertheless have succeeded in the struggle for survival by timely adaptation to changed conditions. No machinery of government designed by man can ever reach perfection; it is a counsel of despair to jettison present systems merely because they display faults. Other countries, in spite of their, on the whole, greater experience than Britain in the fashioning and refashioning of constitutions, scarcely appear to have achieved greater success in solving the practical problems of government. If the validity *a priori* is accepted of the theory here put forward, that our local government system offers an opportunity of solving the problem, so conspicuously (although for different reasons) unsolved in the U.S.A. and the U.S.S.R., of reconciling a necessary increase in collective control with the avoidance of oligarchy,

bureaucracy, or rule by the 'managerial classes', and if no other suggestion offers an equally promising method of resolving the dilemma, the proper course is clear: that is, not to abandon the theory, but by purging local government of its crudities to refashion it as an instrument fit to play a new and altogether more vigorous role in the life of the community. Yet whilst the minutiae of local government are being much debated, there is little evidence that its true potentiality is commonly recognized, or that its more fundamental problems are understood.

CHAPTER II

THE DISTRIBUTION OF GOVERNMENTAL FUNCTIONS

THE size and constitution of the groups into which men coalesce for the purpose of common action must be determined by the ends that are sought. For centuries it has been recognized that for certain purposes—defence against foreign aggression, including the maintenance of armed forces, and currency regulation, for example—no smaller unit than the national State will suffice. Indeed, there is a growing realization that some ends are unattainable so long as the national State is regarded as the ultimate unit of government, and that in such a matter as the control of atomic energy collective action through a unit comprising many national States can alone be effective. At other times the object which is pursued through collective action is of direct interest to only a small group—the establishment of a public library in a particular town, the installation of street lighting in a particular village, the forming of a choral society amongst the members of a particular church. These, compared with national defence, currency regulation, and atomic energy, may seem trivial examples, but it does not follow that because an object is of concern to only a few people it is therefore of small concern to them.

It is so obvious that the unit and method of government must depend upon the function to be performed that the only excuse for labouring the point is that the principle is often disregarded in current discussion of the comparative merits of supranational, national, and local government.

In England at the present day social services may be divided into four categories, according to the method by which they are provided:

(i) Those which are the concern solely of the central government. Examples are unemployment assistance and old-age pensions. The extent and nature of the service to be provided is determined in detail by Act of Parliament or by Departmental regulation, and the administration of the service is carried on either by a Government Department or by a body, such as the Assistance Board, created *ad hoc* and answerable to a Minister of the Crown. The extent to which the administration, as distinct from the organization or 'planning', of the service is centralized depends partly on the nature of the service, but in part has been settled more or less fortuitously. In many cases the unit of administration at the point of impact on the public is small, for small-scale administration may co-exist with large-scale planning.

(ii) Services which are planned by the central government but administered through a local government body elected, directly or indirectly, by the people. Examples are the police and the education services, in which the legislative and 'planning' functions are performed centrally, that is by Parliament

and the Government Departments, local administration being entrusted, under central supervision, to local elective bodies. This is a peculiarly satisfactory compromise in the distribution of functions in those services which must be planned, or organized, according to a national pattern but which, in administration, that is in the actual performance of the service, call for the exercise of discretion and not the mere application of rules.

(iii) Services which, if provided at all, are 'planned' as well as administered through local government, such as museums and certain trading undertakings. They are 'planned' locally not in the sense that the local authority has complete liberty of action, for the services, if provided at all, must conform to certain broad patterns prescribed by the central government, but in the sense that, first, the authority is free to act or not, at its will, and, secondly, that the limits laid down are wide enough to allow the authority a large discretion, subject to little or no supervision, in deciding how the service should be provided.

(iv) Services which are provided by voluntary organizations. It is well known that in most fields of social service voluntary agencies have been the pioneers. In some they still labour alone, but in others organs of central or local government have assumed a responsibility, sometimes concurrent with that of the voluntary organizations, sometimes in fact although not in form exclusive. The equitable jurisdiction of the Lord Chancellor contrasted with the

legal jurisdiction of the Courts of Law offers an interesting analogy to the 'equitable' administration of voluntary organizations contrasted with the 'legal' (and sometimes legalistic) administration of central and local government bodies; in administrative method, in willingness to seek the substance and ignore the form, and in concentration upon the personal issues involved, government agencies have something to learn from the practices of voluntary organizations, in the same way as the Common Law Courts were influenced in their procedures by the administration of the system of Equity. The analogy can be taken still further, for just as the discretionary remedies offered by the Chancellor hardened into a system scarcely less rigid and technical than that of the Common Law so there is a tendency for all long-lived voluntary organizations to take on some of the features which conspicuously belong to official agencies, and for the organizational to be emphasized at the expense of the voluntary element. However, so long as a voluntary organization is fulfilling its true role its administrative technique must differ, although perhaps only subtly so, from that of a public authority, and therefore it may be that certain social services will always be more aptly organized through voluntary associations than by formal government agencies. Since, moreover, there will always be a need for experiments in social services, requiring all the pioneering faculties that voluntary organizations have hitherto shown, the continuance of voluntary agencies is assured provided that they are constantly

willing to revise their functions to suit changed social and political conditions.

'Planning' and 'administration' as broad categories of governmental functions are easily distinguishable, although it would be hard to define the exact boundary between them. As already stated, central planning is consistent with local administration. The requirement of the Education Act of 1944, that a local education authority should put forward a Development Plan for primary and secondary education which, after approval, with or without modification, by the Minister of Education, must be carried out by the authority as a duty, is an example of machinery devised to reconcile local administration with planning which will not conflict with national criteria. Nevertheless, current trends are for central government more and more to become engaged not merely with the planning but also with the actual administration of social services, for units of local government to become larger, and for both central and local government to accept responsibilities previously left entirely to voluntary agencies. The history of highways epitomizes these developments: originally the ill-defined responsibility for keeping the highway in repair lay with individual holders of land, and was regarded in a sense as a charitable work, worthy of remembrance in a man's testamentary dispositions; at an early stage of local government history the responsibility became that of the parish, the smallest local government unit; in the nineteenth and twentieth centuries the upkeep of roads passed first to *ad hoc*

combinations of parishes known as Highway Boards, then, as regards classified roads, that is roads having more than parochial significance, to county councils, and finally as regards those roads (known as trunk roads) which are of national importance, to the central government. The same trend is to be seen in the Education Act of 1944: first, the Act transferred powers from smaller authorities, that is certain borough and urban district councils, to the larger authorities, viz. county councils; and secondly in many sections and subsections of the Act (over seventy in all) the Minister of Education was given power to make regulations, Orders or directions for controlling the detailed local administration of the education service. The Town and Country Planning Act of 1947 is a yet more recent example of the tendencies towards larger units of local administration and closer central government control. The co-existence of these two trends is not entirely fortuitous, for an increase in the size of units means a reduction in their number, and it is easier for the central government to secure common action and a modicum of uniformity from a small number of large authorities than from a large number of small ones.

Obviously in some things there must be a national and uniform policy. Injustice would result if the old-age pension varied from town to town, and few, even amongst those who are least impressed by the 'equality of opportunity' argument, would advocate different ages of compulsory school attendance in different counties. Furthermore, the maintenance

everywhere of a minimum standard of efficiency of certain social services, however they may be administered, is of national concern. The health of Jarrow is—or should be—of concern not only to the people of Jarrow but also to the people of Nether Wallop, of Bournemouth, of London: the householder of Birmingham will feel himself endangered, even though remotely, by an unchecked outbreak of lawlessness in Liverpool; and the Cornishman, if he is far-seeing, will recognize that the educational standard reached by the schools of Essex or of Yorkshire is something by which he, in common with the rest of the country, may be affected, and in which he has therefore a proper interest. But, although there may be agreement about the need for efficiency in the social services and the maintenance of proper standards, there will not be the same agreement as to what constitutes efficiency in any given case, nor as to the way in which it is to be attained. Uniformity is unlikely to produce efficiency, since efficiency does not exist *in vacuo* but only in relation to a particular set of circumstances, and circumstances of place, time and person are rarely uniform. Because omniscience is denied to men, and because of the variety of circumstances in which government is called upon to act, these differences of opinion may well be legitimate, and the view which at any given moment has the weight of superior authority behind it may nevertheless be wrong. This is not an argument for rating all opinions of equal value since certainty is impossible, but it is an argument for allowing different groups to seek solutions

to common problems in different ways. It is therefore an argument for a system of virile local government operating within as wide limits as the welfare of the whole of the community will admit, even at the cost of some mistakes which would have been avoidable under a political organization based upon a strongly centralized power of direction. Within that system the units of local government need to be determined according to the function to be performed; a balance has to be struck between two opposing tendencies, one towards the larger unit because of its assumed greater technical efficiency, the other towards the smaller unit because of its more intimate connexion with the people (for whose sake alone all forms and methods of government exist) and because of its greater susceptibility, in theory at least, to popular control.

Flexibility in local administration is required in particular by two groups of social services; those designed to meet needs which vary a good deal from one part of the country to another, and those which are personal rather than environmental in their impact. On the principle that the wearer of the shoe knows best where it pinches it is often assumed that, in those services which need to be adapted to conditions that vary from place to place, the local people will best know what the needs are and how they should be met. The assumption is by no means always true, for the acute outside observer may sometimes more quickly diagnose the needs and prescribe the requisite remedies than local people themselves.

Nevertheless, remedies imposed by outside superior wisdom do not necessarily help forward the cause of good government, for good government is something more than merely efficient government; whether we like it or not government is something which engages men's emotions as well as their intellects. But in any case it is no doubt usually true that local people are themselves the best judges of their own peculiar needs, and that social services which need to reflect variations in local conditions should therefore not only be administered locally but also, so far as the general welfare allows, organized and planned locally.

The second broad group of services which ought to be administered locally comprises those which need to be adapted to fit, not the varying needs of different places, but the varying needs of different persons. In fact the very nature of these services involves local administration, whether the local agent be a civil servant, an elected member or a paid official of a local authority, or a member or an official of a voluntary organization. There is reason for thinking that where the administration of a service calls for something more than efficiency in technique or the mathematical application of regulations—where it involves the adjustment of remedies to fit particular personal situations and therefore requires the exercise of discretion—it is better performed through the medium of local government than through the civil service, not because members and officials of local authorities are more enlightened or more humane than civil

servants but because the civil service properly tends in administration towards the method which takes the *general* view and relies upon the uniform application of rules, whereas local government, which since it is less concerned about the national aspect of the service tends to take the *particular* view, is likely to be the better equipped for finding an apt solution to each singular problem. In the extreme the civil service method corresponds to law without justice and the local government method to the subjective administration of justice unregulated by law; that a proper balance may be struck both adherence to the norm and discretion to depart from it are required, provided that discretion is not arbitrary and is placed under proper control. The administration through local government of those services in which the discretionary element is important ensures, or should ensure, that thereby the exercise of the discretionary function is brought under the control that is most appropriate, that is the control of the people at whose bidding and cost and for whose benefit the services are provided. It may seem that the same purpose can be gained in central government by the practice of parliamentary question and answer, supplemented by the system of private inquiry by a Member of Parliament to the Minister concerned. These are indeed effective checks upon any departure from the norm on the part of a civil servant (so effective that they may discourage initiative and desirable unorthodoxy) but they must always be so infrequent in proportion to the bulk of business performed by the civil service

as to acquire for the particular case a degree of attention rarely justified by its intrinsic importance, and in any event are inadequate as a reasonably close day-to-day control of administration. Local government offers a more promising resolution of the dilemmas of adaptability *versus* uniformity and certainty, and of official discretion *versus* popular control.

These general principles are all fairly obvious, but they do not seem to have had much effect upon the distribution of organizational and administrative functions between the various agencies of central and local government in England. The present distribution gives the impression of having been arrived at haphazardly and almost unconsciously, as the result of casual *ad hoc* decision from time to time. For example, the inspection of weights and measures is a service which needs to be impartially, impersonally, and uniformly administered, yet is the concern of local government, whilst the administration of hospitals, a service as intimate and personal as any well could be, has recently been assumed by the central government.

The enunciation of general principles is easier than their practical application to particular social services, especially when the principles act in contrary directions, as for instance in relation to the hospital service which, as has just been said, needs to be administered on a local and intimate basis, yet because of its variety and scope must be planned and organized for a large unit of population. The Education Act of 1944, in an attempt to reconcile planning on a wide basis, which the education service demands, with intimate

administration, introduced in county areas a new type of local government body, the Divisional Executive, an administrative sub-authority having a statutory existence and with powers delegated to it (under ministerial compulsion in the last resort) by the County Council. If this system has not yet successfully reconciled large-scale planning and small-scale administration the failure is mainly due to certain general defects of local government and to the divorce of financial liability (which rests with the County Council) from administrative responsibility. The example of the Education Act was followed in the National Health Service Act of 1946 which made possible the setting up of Divisional Executives for health services. However, the 1947 Report of the Local Government Boundary Commission records 'a substantial volume of criticism' of divisional executive administration in education, and it seems doubtful whether it will recover from its somewhat inauspicious beginnings.

Because of the difficulty, without going into detail disproportionate to the scope of this book, of illustrating the application of the principles which I have proposed, it would be tempting to leave the subject at this point, merely remarking that these are the principles on which the distribution of functions between central and local government should be settled, and that no system of government which fails to observe them, or to resolve judiciously the antinomy between principles which are in conflict, can hope to be successful. But since this statement of general principles

has value only in so far as they can be shown to stand up to the pragmatic test of practical application it is necessary to give some account, however inadequate to the complexity of the subject, of the way in which the social services should be organized to accord with principle.

Various large-scale *technical* services, such as the Post Office, the generation of electricity, possibly the supply of water, and railway transport are appropriately administered centrally, but the number of *social* services which should be so administered is small, comprising in the main those which can be dealt with through a ubiquitous business office like the Post Office. The making of non-discretionary payments and the issue of non-discretionary licences can conveniently be dealt with in that way. Inspection of weights and measures has no claim to be organized or administered as a local service, nor, on grounds of efficiency or convenience, has the protection service which is represented by the police force. The need for law and order is uniform throughout the country, and it is of the essence of the police service that it should be impersonal in its operation, neither subservient to the overmighty nor neglectful of the interests of the weak. In Greater London the police force is controlled by the Home Office, and no evidence exists, I believe, that the London police are less effective, or a greater menace to the freedom of the individual citizen, than the police in other parts of the country. Yet a State wherein the police are under central control more readily becomes a police-state

than one in which control is diffused, and for that reason the present decentralized system of control of police is to be preferred, even at the expense of a departure from the principles postulated above.

The general framework of the education service, the medical and hospitals service, and the mental health service must be settled nationally, but the framework should not be so narrowly constructed that it acts as a strait-jacket; it must be wide and flexible enough to permit adaptation to meet a variety of local needs. In the organization and administration of these services a good deal of discretion ought therefore to be left to local government. The construction and upkeep of those few roads that are of national concern (inevitably they are of local concern also) must likewise be a joint function of central and local government. Certain of the activities of the Ministry of Labour might benefit from a similar partnership. Such matters as the amount and conditions of award of unemployment benefit, and the linking of labour supply and demand need to be dealt with on a nation-wide basis; but it is conceivable that Employment Exchanges might become more than at present intimate parts of the community they serve, with an enhanced value as social instruments, if their administration were supervised by an elected local authority (as, in some areas, happens in the case of the unemployment insurance and vocational guidance services for boys and girls up to the age of eighteen).

Then come a large number of services, of varying degrees of importance, which should be organized

and administered by local government with the advice, and in some cases subject to a general oversight, of the central government, but unfettered by any form of detailed central control; such are the upkeep of roads, other than trunk roads, and of footpaths; street-lighting; housing; sewage and refuse disposal; libraries and museums; public parks, playing-fields and baths; allotments; cemeteries and crematoria; fire-brigades; the licensing of public houses, theatres, dance-halls, etc.; by-laws for good government; and certain trading undertakings (although there is no strong reason for insisting on the local control of the manufacture and distribution of gas and electricity since these are services in which the consumer's only interest is in the end, a good and cheap supply of gas and electricity, not in the technical means whereby the end is attained).

Town and country planning calls for special consideration because of its far-reaching implications. Such matters as the location of industry and the setting aside of national parks must be the concern of central government, and indeed in a sense the proper use of every acre of land is a matter of concern to the whole of the country. We are all, directly or indirectly, dependent on the land. So the urban obliteration of the rich farm lands of Middlesex during the 1920's and 1930's was a loss to the nation as a whole, not only to the people of Middlesex. Similarly the natural beauty of Dovedale or the Cornish coast, the man-made beauty of Bath or Canterbury, are a common inheritance of Englishmen, not a merely

local asset to be dissipated at the pleasure of those who have the good fortune to live nearest to the scene. Town and country planning both influences and is influenced by all other social services. It calls for the active participation of the central government—more active than it has been in the past—but because the control of the way land is used is in other respects a matter of peculiarly intimate local concern, it must also be a function of local government. Like the other major services referred to above it therefore becomes a joint concern, and we must now pass to some consideration of what should be, in the organization and administration of these services, the respective roles of central and local government and the relationship between them.

For all services, major or minor, voluntary or mandatory, this relationship is in a sense predetermined in one direction by the doctrine of *ultra vires*. Dating from the first half of the nineteenth century and derived from analogy with the law relating to the corporate personality and restricted powers of joint-stock companies (which were then growing in numbers and importance, especially as a result of the Companies Clauses Act of 1845) it settled that it is *ultra vires* and unlawful for a local authority to undertake any act unless it has been empowered, specifically or by necessary implication, by Parliament so to act. Experiment and initiative are thereby discouraged. An authority wishful of making progress and striking out along a path hitherto untrodden must get a Private, or Local, Act of Parliament, an expensive,

tedious and chancy business involving prolonged negotiation in the course of which concessions may have to be made and compromises accepted going far towards defeating the purpose of the measure. To reverse the present position, to put a local authority in the same position as any other legal person by allowing it to do anything not contrary to the general law, would be impossible; apart from anything else, chaos would ensue if one authority began to undertake a service already the responsibility of another.

But if local government is to play the larger part in the nation's affairs of which I am suggesting it is potentially capable, some modification of the century-old doctrine of *ultra vires* is necessary. It is unfortunate that most proposals of local authorities for widening their field of activity, because they have usually related to municipal trading in one form or another, have escaped consideration on their merits by being subsumed under a preconceived political category. There are, however, other directions in which experiments might usefully be made, as the Local Government Act of 1948 recognizes by empowering authorities of certain types to undertake 'the provision of an entertainment of any nature'; local government needs to rise above mere utilitarianism and to develop an æsthetic sense. Some means must be found so that local authorities are freed from their present shackles, yet central control is retained in sufficient strength to prevent either administrative confusion or action generally deemed to be anti-social. A solution might be possible along these

lines: first, Parliament would by statute, as at present, confer powers and impose duties upon local authorities; secondly, Parliament would, again by statute, prohibit certain activities on the part of local government bodies, notably those reserved to the central government itself or already entrusted to other public authorities or corporations; an authority wishing to undertake an activity neither expressly permitted nor expressly prohibited by statute should be empowered to do so on obtaining the authority of the Minister of Health, and from his refusal an appeal should lie to a special Administrative Tribunal (referred to in more detail later), the function of which would be to determine differences between Government Departments and local authorities. Admittedly, differences of that nature can in theory be resolved by Parliament, but in practice Parliament is so burdened by other duties that it has no time for such trivia. It might be necessary to enact that the operation of any decision of the Tribunal reversing a decision of the Minister of Health should be suspended for a short period (say three months) to enable the government of the day, if it believed that serious harm would result, to submit to Parliament a Bill adding the particular activity to the prohibited list. Thus Parliament's ultimate control of things of national importance would be preserved and at the same time the inhabitants of a particular town, village, or county would not be hindered by an outmoded rule of law, which disregards the merits of the case and looks more to the form than the substance, from acting collectively in a

way which the majority of them think will further their common interests. It follows logically that the cost of any such special activity which the inhabitants of a district undertake for their own benefit should be borne by them and should not be spread, directly or indirectly, over a wider area.

The *ultra vires* doctrine is a sanction chiefly employed by the District Auditor, an official whose functions and powers are wider than his title indicates. His is an anomalous position because, although he is appointed by the Minister of Health, he is—at least, according to a statement made by the late Mr Neville Chamberlain when he held that office—not under the Minister's control, but apparently is answerable only to his own conscience. For a Minister to interfere in the work of an official by attempting to seduce him from his professional integrity would be reprehensible, but for a civil servant armed with wide powers to be allowed to itinerate the country with no Minister responsible in the last resort for his actions is contrary to the customarily accepted views of constitutional propriety.

The need for the proper audit of the accounts of every public authority is undoubted. Present difficulties arise from the fact that the District Auditor's function is twofold—to surcharge expenditure (or loss of income) which has resulted from fraud or error, and to surcharge expenditure improperly incurred in that it is caused by action taken outside the authority's statutory powers. Not only has the Auditor power to disallow expenditure on objects which

in his view are *ultra vires* (a matter which may give rise to difficult and complex questions of law) but also he may disallow expenditure which, although on an admittedly lawful object, he regards as unreasonably high—since the enabling statute must be construed as empowering the authority, by implication, to spend only what is reasonable. The electors, with due solemnity, choose the men and women who are to control their local government, and the law endows them, apparently, with wide powers, but when it comes to a question of what is reasonable expenditure on a service for the efficiency of which they are responsible, their judgement may ultimately be ousted in favour of that of the District Auditor. True, a dissatisfied authority may appeal against surcharge to the High Court (or to the Minister of Health if the sum involved is not more than £500) but neither the Court nor the Minister is a suitable body to exercise a discretion which the electors intended undoubtedly to confer upon their own chosen representatives.

Of course District Auditors are usually sensible men, and in practice differences between them and local authorities do not often arise. Occasionally their differences are brought prominently before the public eye; the Poplar wage case, for example, because of its political connexions, became a *cause célèbre*, and more recently quite widespread interest was shown in the decision of the High Court upholding, against the District Auditor, the power of Birmingham Corporation to aline itself with certain Universities and enlightened industrialists by paying children's allow-

ances to its employees. But even though such cases are rare, the peculiar position of the District Auditor is symptomatic of a wrong approach to the problem of the proper limits to local government action. Moreover, it has to be remembered that the real damage lies not in the few disputed cases which find their way to the Courts or to the Minister for final determination, but in the many occasions when an authority refrains from taking action, which it believes to be desirable, for fear of offending the doctrine of *ultra vires* and so becoming obnoxious to the District Auditor. The true damage is therefore concealed and the extent of it is unknowable. Since the early 1920's the number of surcharges made by District Auditors has fallen steadily, year by year; the reasons for this diminution are several, amongst them the caution—sometimes the excessive caution—which authorities have learnt to exercise in the face of novel circumstances.

Since the powers of a local authority cannot be unlimited, a check to ensure that their powers were not being exceeded would remain necessary, and this check could best be exercised through audit, all activities of an authority having some financial consequence and so being revealed in the authority's accounts. The Auditor's function should be not to surcharge, but to draw the attention of the Minister of Health to any expenditure which, in the Auditor's view, arose from the use of powers which the authority did not possess, and any dispute between the Minister and the authority whether the power had been legitimately

exercised should be decided by the suggested Administrative Tribunal. The Auditor would in addition have the normal duties of detecting and publishing fraud or error, and there is much to be said for empowering him to comment in a public report upon any inept handling of business discovered by him. Thus, where expenditure had been incurred which he thought unnecessary or excessive, his duty would be to arraign the offenders before the bar of public opinion, instead of, as now, doubling the role of prosecutor and judge. The remedy could be left to the electors; in some things Benthamism is discredited, but in matters which affect the rates self-interest, whether enlightened or otherwise, is still a potent force.

In addition to this general sense in which all local government is of concern to central government because of the doctrine of *ultra vires* and the activities of the District Auditor, a particular relationship between the two springs from the fact that, as already noticed, certain social services are planned and administered by local government according to a national pattern, and under some degree of guidance and surveillance by the central government. Here the relationship between central and local government, differing according to the nature of the service in question and constantly undergoing quiet and almost unnoticed modification, is too varied and subtle a thing to submit to simple verbal definition. Especially during the last few years the Government Departments have evidently felt themselves to be on

uncertain ground in relying upon the zeal and good sense of local authorities, and so have exercised a closer control over their acts. Whether this is in fact necessary is perhaps debatable; what is regrettably certain is that such a practice leads, both centrally and locally, to a good deal of work which is mere administration and which *pro tanto* reduces the sum total of energy available for productive activities, that is activities which really will be of benefit to the citizens. War-time and post-war controls, inevitable through present deficiencies of labour and materials and the need to dispose to the best advantage of those that are available, further increase the volume of unproductive work. The machinery of government has grown so vast and complicated that the friction which it generates slows down its rate of working and could, conceivably, in the end bring it to a standstill. One of the great problems of our time, of international no less than of domestic significance, is to devise an organization which can handle large and complex issues, and yet, by the avoidance of unwieldiness, function efficiently. It is a problem from which industry, privately owned or nationalized, does not escape, and Mr Peter F. Drucker's *Big Business* is an illuminating study of the methods adopted by General Motors Corporation in an attempt to secure concurrently the advantages of centralization and of devolution. In the government of this country, if the right relationship can be established between the Executive branch of the central government on the one hand and the local authorities

(whatever form they may take) on the other, at least a partial solution to the problem will have been found.

Such a relationship presupposes on the part of central government a willingness to recognize that where differences of view exist the major partner to the joint enterprise will not on every occasion and on every subject possess a superiority of wisdom, and that therefore if in a dispute the government view is to prevail it should do so not *ex auctoritate* but on its merits demonstrated, in matters of importance, to an impartial and informed tribunal. As things now stand such differences may occasionally, in the last resort, be settled by Parliament, but that is not in general a suitable or feasible method of settlement; occasionally they may be settled by the Courts of Law, which, however, are not well adapted to this particular function; or more often they are settled by the *ipse dixit*, with or without reasons stated, of the Minister, a method based on the assumption that the Minister will be wiser and better informed than the local authority. This assumption is implicit, for example, in Section 68 of the Education Act of 1944 whereby, in any matter which is left to the discretion of a local education authority or governors or managers of a school, the Minister of Education may nevertheless, if *he* thinks it reasonable, substitute his discretion for theirs. No doubt a Government Department, in matters which had been dealt with personally by senior civil servants and by the political Head of the Department himself, would usually,

although not invariably, be wiser and better informed than a local authority, but the soundness of the Department's view should be based, and be seen to be based, on good reason, not on authority derived from statute. A statutory grant of superiority of wisdom extends in fact beyond the Minister himself to his Department, and may colour its whole relationship with local government and other bodies; where, of two partners, one is endowed with an ultimate absolute power, there is a temptation to rely on that power instead of on argument and reason to secure the conformity of the other. Burke put it more strongly: 'When any community is subordinately connected with another, the great danger of the connection is the extreme pride and self-complacency of the superior, which in all matters of controversy will probably decide in its own favour.' Since neither Parliament nor the Courts of Law are well fitted to perform the function, there is room for a standing Administrative Tribunal, consisting say of three members, one of them accustomed to acting in a judicial manner and the other two experienced in the art of government, to determine differences between Government Departments and local authorities.

The establishment of a special tribunal as an appellate court from decisions of a Minister would not be an innovation in the English constitution; such a body is constituted for example under the Education Act of 1944 for the purpose of hearing an appeal by an independent school against a notice of the Minister of Education requiring the school, under

pain of being struck off the register, to remedy certain alleged shortcomings. The tribunal is to consist of a legally qualified chairman, appointed by the Lord Chancellor, and two persons experienced in teaching, or in the conduct of schools, appointed by the Lord President of the Council. To deny a right of appeal in such a case from the decision of the Minister would offend a sense of justice, but it may seem, on reflexion, a little odd that the Minister must be prepared to justify to an independent tribunal his action in relation to a private academy, however undistinguished, but not in relation to such a body as the Manchester City Council, the West Riding County Council, or the London County Council.

The Administrative Tribunal which I have suggested bears some functional similarity to the French *conseil d'état*. Dicey did not think well of the system of *droit administratif*, and to those who are devotees of the Lady of the Common Law—a jealous mistress indeed she is—the idea of an Administrative Tribunal may seem abhorrent. But the Tribunal would not be usurping any of the functions now exercised by the Courts of Law. It would not be another encroachment of the Executive on to the preserve of the Judicature but the opposite, an attempt to ensure that matters requiring calm investigation and reasoned decision are, in fact, determined in accordance with those principles which the Courts, in their proceedings, have led us to regard as the properties of justice.

An apparent objection to an Administrative Tribunal is that it would lead to the multiplying of dis-

putes—as, it might be argued, the establishment of Courts of Law gives rise to litigation. But it is surely not wishful thinking to believe that frequent references to the Tribunal would be unnecessary, as frequent reference to the Courts of Law is unnecessary in the ordinary affairs of life. Apart from the comparatively few occasions when reference to the Tribunal would be necessary, its mere existence as an appellate court available in the last resort would give greater realism to the independent contribution which local bodies ought to be capable of making in the direction of social progress. Nothing of course would detract from the power of a Minister of the Crown to seek the reversal by Parliament of a decision of the Tribunal which he thought to be so seriously out of keeping with Government policy as to justify Parliamentary intervention, in the same way as the Government may submit legislative proposals to amend the general law as determined by the House of Lords acting as the final Court of Appeal.

Such a conception of the relationship between central and local government imposes, conversely, certain moral obligations on the local authority. It presupposes on the part of the local body an ability to take a wider view than the immediate local issue may seem to demand, and a willingness to carry out faithfully and effectively a policy, the product of mature consideration, which is different from that which the authority itself, if a free agent, would have chosen. It requires a nice judgement by central government in deciding which errors perpetrated, or about to be

perpetrated, by a local authority are so serious as to make intervention necessary; on the part of the local authority it requires an equally nice judgement in deciding when to submit to a reversal in its policy, and when to oppose such a reversal by all the means legitimately open to it. Nicety of judgement in these and similar matters is of the essence of political good sense, which may be learnt by practice but cannot be brought within the four corners of any definition or compounded according to any neat verbal formula.

CHAPTER III

FINANCE

RATES charged upon real property, and payable by the occupier, not by the owner, are the traditional foundation of local government revenue.¹ Because of the increasingly apparent defects in this method of raising revenue it has had to be supplemented from other sources, but little attempt has been made to reconsider local government finance as a whole and to refashion it with the needs of the twentieth century in mind. A more satisfactory financial system is fundamental to effective and vigorous local government.

In their seventeenth-century origin, parochial rates, which could be levied on moveable property as well as on land, were a good enough device for securing rough-and-ready justice in the distribution of the comparatively small monetary burdens which local government then involved. Some of those burdens, such as road-mending and acting as constable, were once performed by personal service, it will be remembered, not vicariously, as they now are. The functions of government were regulative rather than concerned with the direct provision of social benefits (for even the Poor Law was administered rather as the regulation of an inescapable nuisance than as a necessary and humanitarian service) and

since the services which local government performed looked mainly to the interests of owners and occupiers of real property, it was natural, and on the whole equitable as well as administratively convenient, that the practice should develop of limiting the imposition of rates to real property. It was, however, almost by accident and after a long period in which conflicting decisions of the Courts caused confusion and great uncertainty that moveables escaped payment of rates. With the increased burdens caused by the misadministration of the Poor Law at the end of the eighteenth century and the beginning of the nineteenth, the rates system very nearly broke down. The burden became so heavy that in many places land was allowed to go out of occupation, and the Commissioners of Inquiry into the Poor Law in their *Report* of 1834 cited one whole parish where 'the landlords having given up their rents, the farmers their tenancies, and the clergyman his glebe and tithes', the collection of the rates had suddenly come to an end. The *Report* is a salutary reminder that there is a point beyond which the imposition of dues, as a means of raising revenue, defeats its own purpose.

The rapid development of social services during the nineteenth century laid a heavier load on local finances. In the first half of the century began the innovation of subventions by the central government to local government (then comprising a haphazard miscellany of authorities with widely varying functions and resources). The first government

grant for education, a sum of £20,000, was made in 1833, but it was a grant to certain religious societies, not to local government. Already as early as 1834 Parliament was exercised about the rating system, and set up a committee of inquiry. The Committee reported that 'if chattel property could be made to contribute its fair proportion' (a result not yet achieved, in 1948) 'to the expense of administering criminal justice, no objection could, perhaps, be fairly urged' against the expense being met from local funds. Until that condition had been fulfilled the Committee thought that some part of the cost should be borne on national funds, and the Government, accepting the findings of the Committee, agreed to make subventions towards the cost of administering criminal justice, a recognition that this was a service of national, not merely of local significance. Government grants towards the cost of the police were recommended by the Royal Commission of 1839, but did not find statutory blessing until the County and Borough Police Forces Act of 1856.

At this stage of development grants-in-aid were made for specific and limited objects, usually as *douceurs* to persuade authorities to undertake novel, and therefore unpopular, services. By 1870 the total annual grants reached £1,000,000 towards a total local government expenditure of nearly £30,000,000. At the end of the nineteenth century government grants amounted to £12,000,000 out of a total of nearly £100,000,000. By 1940 the central government's contribution towards a total bill (excluding

trading undertakings) of about £550,000,000 was £225,000,000. Thus in eighty years its proportionate financial interest grew from one-thirtieth to two-fifths. Whether, before the last quarter of the nineteenth century, Parliament saw that by increasing its grants towards local government expenses it could acquire a control over the policy and administration of the local authorities—or whether it would have wanted to do so—is doubtful. The earlier statutes offer no suggestion that Parliament was working to a consistent policy, but inevitably as the grants increased in amount and frequency, so the ability of the central government to influence, and even control, the administration of certain services grew. Finally, in 1929, the Local Government Act of that year, by relieving industrial buildings, railways and canals of three-quarters of the local rates and by granting farm-land complete exemption, deprived local authorities of a substantial part of their normal revenue, rendering them even more dependent than before upon grants-in-aid from the central government. The 1929 Act introduced the system of grants-in-aid not for specific services but towards the general expenses of local government in the area, and since the payment of grant could be withheld if the local authority was considered by the Minister of Health to be failing in its duty, the Act produced, although probably not by design, a two-fold result—it assisted industry at the expense of local government, and it weakened local financial independence. The Local Government Act of 1948

introduces a new basis for the calculation of central government subventions, but it preserves the power of the Minister of Health to reduce or withhold grants where he thinks that a local authority has failed to achieve or maintain a reasonable standard of efficiency and progress, or has been extravagant. Admittedly the Minister is required to lay a report before Parliament and the reduction cannot be made until the House of Commons have by resolution approved the report, but Parliamentary time being limited and majorities obedient the risk that the Minister might fail to get approval for his report is slender. The Minister's powers under the Act are, in truth, wide. The financial nexus is now such that if the central government chose to press home the advantages of its position the status of local government could be reduced to that of clientship. That has not so far happened, and undoubtedly the majority of politicians of all the parties would be opposed to any attempt deliberately to use the power of the purse to curb the activities of local government. Practices have a habit of growing up, however, unwilling and almost unnoticed.

The Act of 1929 made the first serious attempt to find an equitable basis for the calculation of government grants. The early grants took the form of a certain percentage of the authority's expenditure on the service aided. This method had the advantages that it was simple, that it favoured the progressive authority, since the more it spent the more it received, and that as a sufficient proportion of the cost was left

for the authority to find from its own resources, self-interest would ensure that due economy was practised and the need for detailed scrutiny by the central government of every proposed item of expenditure could be avoided. The percentage grant system is still in force for some services, but has long been recognized as unsatisfactory in that it relates the amount of grant rather to the authority's means than to its needs.

The method of grant-aid adopted by the Local Government Act of 1888 was to set aside certain revenues, namely the surtaxes on beer and spirits, the licence duties on dogs, male servants and armorial bearings, and a part of the estate and probate duties, for the benefit of local government, and to apportion the 'assigned revenues' among the local authorities according to the proceeds of these taxes and duties in their respective areas. In practice the apportionment was found difficult to make and experience did not fully bear out the theoretical justification of this method of grant calculation, that it would cause grant to keep in step with needs, since as the population of a district, and therefore its needs, grew so also would the local product of the assigned revenues.

Housing authorities have enjoyed—or suffered—various grant systems from time to time. In the early 1920's local authorities received a subsidy equal to the amount by which the annual deficit on a housing scheme exceeded the product of *1d.* rate. From the authority's point of view such a method of

grant assessment has the advantage that the amount of the local burden is known in advance and is immutable; it has the disadvantage that since the local authority has no special incentive to practise economy the central government must at every turn make investigations to ensure that no extravagances are perpetrated, and in fact as Lord Simon of Wythenshawe recounts in his *City Council from Within* the braking effect of central control reached such dimensions by 1923 that municipal houses almost ceased to be built (except on paper), and the frustrated local authorities were glad enough to purchase some measure of freedom with the amendment of the grant system, even at the expense of a larger burden falling on the rates. A more satisfactory system of grant-aid is that based on 'unit-cost'; for example housing authorities, under this system, receive a specific sum over a period of years for each person rehoused or each house built. Education grants in part are calculated on a unit basis. The obvious drawback to the unit-grant system is that unit costs are not uniform throughout the country, being, for most services, higher in rural areas than in towns.

The general grants-in-aid under the 1929 Act were given on a different basis from any of those already mentioned. They were calculated according to a formula which sought to give proper weight to (i) the proportion of the population in the area under the age of five, for the larger the proportion the greater will be the authority's financial needs; (ii) low rateable value in relation to population; (iii) abnor-

mally high unemployment in the area, since it both increases the demands made upon the social services and diminishes the local resources; and (iv) for the counties but not the county boroughs, sparseness of population, since costs, especially of the upkeep of highways, are disproportionately high in thinly populated districts. Thus the object of the 1929 Act was to relate the amount of the Exchequer grant to the true needs of each authority, and the fact that Merthyr Tydfil received for 1947-8 a general grant equivalent to a rate of 16s. 11d. in the pound, whereas Bournemouth's grant was equivalent to only a 6d. rate shows that the object was, in part at least, achieved—but in part only, for nevertheless Merthyr's rates remained at 30s. in the pound compared with Bournemouth's 11s.

The 1948 Act substitutes a new formula for the calculation of what are now known as 'Exchequer Equalization Grants', the effect of which will be to reduce rate discrepancies. The termination of the Poor Law and the transfer of the hospital services to the Ministry of Health has relieved local authorities of an expenditure of over £60,000,000 a year, an amount in excess of the total general grants-in-aid made by the Exchequer in 1947-8. This alone, unless the *proportion* of local expenditure met from central funds was to be increased, would have required the alteration of the formula established by the 1929 Act. The new formula works in favour of rate equalization between district and district, thus carrying a stage further the principle introduced in

1929. Under the 1948 Act a local authority receives an Exchequer Equalization Grant if its resources, measured by rateable value modified to take account of exceptional expenses resulting from an abnormally large child population or from sparseness of population, fall below the average for the country. Although this is an improvement on previous grant formulae, it is doubtful whether even now the problem of adjusting grants to needs had been completely solved, as the Act itself implicitly recognizes by requiring quinquennially an investigation into the working of the new financial provisions. Underlying the new formula is the basic assumption that the rateable value of a district is an accurate index to its wealth; it is an assumption that carries with it an air of probability, but probable and proven are not the same thing, and the assumption might not stand up to stringent investigation.

The late Sidney Webb, in 1911, advanced four reasons why 'grants-in-aid of local expenditure are indispensable: (1) for any equitable mitigation of the inequalities of burden; (2) to secure effective authority for the necessary supervision and control of the national Government; (3) to encourage the kind of expenditure most desirable in the interests of the community, and (4) to make it possible to attain to anything like a universal enforcement of the "national minimum" that Parliament has prescribed.' The first need, to secure the equitable distribution of burden, certainly remains, but it is open to question whether grants-in-aid of the customary kind are the only, or

the best means of meeting it. Implicit in the other three reasons is the assumption that local government, left to its own devices, necessarily attains to only a low degree of efficiency, and that supervision and direction by the more efficient central government are therefore essential. It is doubtful whether this assumption retains the validity it probably possessed in 1911; and although local government as now organized is, in some respects, patently defective in operation, it is more than doubtful whether stricter supervision and direction by a central government already overburdened by the continuous expansion of social services to a point at which concentration of power no longer spells efficiency, is at the present juncture the right answer to the problems which Mr Webb postulated. In so far as local government is now in need of greater, not less, independence the system of grants-in-aid, whereby control of policy and action is purchased at the cost of State subventions, far from being indispensable, is to be regretted. Local government has the opportunity of humanizing and softening the impact which increasing governmental activity makes upon the individual citizen, but for it to be able to make the most of its opportunity it must have a sufficient degree of financial independence to ensure reasonable freedom in its counsels and actions.

(Although the rate revenue, covering as it still does more than one-third of the cost of local government, has hitherto formed a large enough proportion

of the total to prevent local authorities from becoming mere agents of the central government, it has probably reached its economic limit, and as expenditure increases—as it almost inevitably will in spite of the transfer of hospitals from local to central government and the termination of the Poor Law—it will form a less important part of an authority's income. The reforms in education alone will cause heavy expenditure which some authorities may find it scarcely possible to meet, and for the legislature to prescribe the end to be attained where the means are known to be insufficient is not only vain but in a sense dishonest.)

(But it is not only, or mainly, the inadequacy of the revenue produced which condemns the rates-system as unsuitable to modern requirements. Rates are an impost which fall on only one section of the community, the occupiers of real property (except farmers and industrialists, for whom the burden is mitigated). Unlike other forms of direct taxation rates are not related to the payer's means, the pecuniarily poor man whose only wealth is a large family which causes him to occupy a large house being more heavily mulcted than the rich bachelor living in the smaller quarters adequate to his needs. Again, even between families of similar size rates are proportionately a heavier burden upon poor than upon well-to-do families because the lower the family income the larger the proportion of it that must be laid out on rent and rates. Nor does the system directly relate payment to benefit received, which would be an

intelligible, though not good, reason for its existence. Furthermore, it leads to a high rate-poundage in the less prosperous areas, a vicious result since it makes those areas unattractive to prospective settlers, especially to industrial and commercial concerns, and therefore handicaps the poorer districts in endeavouring to mend their fortunes; thus poverty begets poverty.

One of the criticisms that has been most frequently levelled at the rating system is inequality of assessments. If similar properties within the same rating district are assessed at different figures injustice is done, and is manifestly seen to be done; it is not so manifest that injustice is done where similar properties in different rating districts are assessed at different values, but injustice does in fact result because the amount of Exchequer grant (which comes out of the national purse) received by each local authority is increased or reduced according to the total rateable value of the authority's area.) The classic rule for assessing the rateable value of an hereditament is to estimate 'the rent at which the same might reasonably be expected to let from year to year, free of all usual tenant's rates and taxes, and tithe commutation rent-charge, if any, and deducting therefrom the probable average annual cost of the repairs, insurances and other expenses, if any, necessary to maintain [the premises] in a state to command such rent.' To make such an estimate for an ordinary dwelling-house was no doubt fairly simple in 1836 when the Parochial Assessment Act

was passed, but many questions, incapable of a satisfactory answer, arise when the law of supply and demand is not free to operate, and when rents for the majority of houses are fixed under the Rents Restriction Acts at figures having no relation to the rent which a hypothetical tenant might be expected to be willing to pay. Owing to the fortuitous way in which these Acts operate the rents of adjacent and identical houses may differ by 100%; should the rating assessments follow the rents actually paid or the 'reasonable' rent, and, if either is to be taken as a 'reasonable' rent, which of the two? The House of Lords decided that the limitation of rent under the Rents Restriction Acts did not affect the assessment of annual value for rating purposes, but since so few houses now fall outside the scope of the Acts there has been an almost complete absence of evidence available to the assessors to show what the rent of a house in a free market would be, and in consequence of this and other facts rateable values of houses often bear no constant relation to the rents which are actually paid.

This problem the 1948 Act has partly answered, albeit in a somewhat arbitrary way, by prescribing how the rateable values of certain categories of dwelling-houses are to be calculated. The matter is too technical to be pursued here, but the new Act has the effect of increasing the artificial element in rating assessment. Our century-old friend, the hypothetical tenant, has been banished from the centre of the stage, but he still lurks in the wings and

makes a reappearance, though brief and rather furtive, when his more up-to-date successors in the assessment business are for the moment non-plussed.

Other kinds of property than dwelling-houses give rise to other problems. It is difficult to imagine a tenant of a length of canal or tram-line, still more of a sewer, and the estimation of the annual value of such hereditaments must therefore proceed on a more or less arbitrary basis. The nationalized transport and electrical undertakings do not now pay rates, but make a lump sum payment, based on the total of the rates previously paid, to the Minister of Health which he is to distribute to local authorities 'at such time as he may determine' in proportion to their rateable values. The curious result follows that a county without any railways at all will nevertheless get a share of the total payment made by the British Transport Commission in lieu of rates, and conversely a district burdened with a large generating station belonging to the British Electricity Authority will not thereby be entitled to any additional share of the total payment, whatever added expenditure the local authority may have to incur, directly or indirectly because of the presence of the power station. The Minister of Health is given power to make Orders (subject to approval by resolution of each House of Parliament) extending these special provisions to other premises of the British Transport Commission, or removing from their operation premises to which they would normally apply.

Nationalization therefore has, as an indirect result, the complication of the rating system, and bestows upon the Minister of Health an added function as distributor of funds to local authorities.

Another change made by the 1948 Act should, however, in time go far towards solving the problem of uniformity of assessment as between district and district. Formerly, assessments were made by local *ad hoc* bodies, known as Assessment Committees, and for the sake of promoting uniformity of assessment, each county had a Valuation Committee consisting of representatives of the county council and of each assessment committee. Further, there was a Central Valuation Committee, an advisory body to the Minister of Health. In spite of this machinery it could still be stated in January 1947 that 'in twenty years nothing like uniformity has been achieved; many local authorities have sought it honestly; many others have done little; and some, for reasons sufficiently well known, have been actively obstructive'.¹ The Assessment Committee consisted largely of members of the rating authority or authorities for the area, a constitution which was anomalous for a body whose function was the quasi-judicial one of securing justice between the rating authority and the rate-payer. From what has already been said it will have been gathered that estimating the net annual value of a property is, in many cases, a highly technical process, requiring great professional skill, and

¹ *Justice of the Peace and Local Government Review* (11 January 1947).

it has often been questioned whether, in such a matter, a lay Assessment Committee has any useful part to play. The 1948 Act in effect answers this question in the negative by transferring the making of valuations to the Valuation Officers of the Board of Inland Revenue, and, significantly, appeals now lie not to Quarter Sessions, where the magistrates may be laymen, but first to *ad hoc* local valuation courts, and thence to the County Court. These are distinct improvements in the machinery for the valuing of properties for rating purposes, but it will be years before they can become fully effective, and even then not all the problems will have been solved.

(To turn aside from the rating system, another source of revenue available to some authorities is the profit derived from municipal trading, although the nationalization of gas and electricity and now possibly of transport also will greatly reduce such profits. Modern controversy revolves around the extent, rather than the inherent propriety, of municipal trading and whether the profits should go towards reducing the general rates, thus benefiting all the rate-payers, or whether they should be utilized in such a way as to benefit only the consumers. Since the rates provide part of the capital for municipal enterprise and would ultimately have to bear any losses, it is reasonable that trading undertakings should contribute something towards the rate-fund, but as the avoidance of profit-making from vital public services is a main justification of municipal trading no large general revenue can be expected

from that source, unless there is a radical, and as it now seems, unlikely change of attitude towards the purpose of municipal trading. Fresh sources of revenue must be sought elsewhere than here.

It has sometimes been suggested that a suitable form of local government revenue would be a local income tax. Such a tax has much to commend it, especially its nice adjustability to means. The objections to a local income tax are, however, insuperable. It would be costly to collect; it might give rise to conflict with national fiscal policy—rates of more than twenty shillings in the pound are monetarily possible, but national and local income tax totalling twenty shillings in the pound or anything approaching it would be subject to the law of diminishing returns; and, with companies and similar bodies, it would be difficult or impossible to localize income for taxing purposes.

Another suggestion, now being investigated by a committee set up by the Minister of Health, is that site values should be taxed. A site is enhanced in value less, generally, by the action of the owner than by the actions of his neighbours, and especially of the local authority. Therefore, a tax which assures to the community some share in the increased value which their efforts have created has a savour of equity. There may, however, be difficulty in reconciling the taxation of site values with the imposition of a development charge, under the new town-planning legislation, where there is a change in the purpose for which a property is used, and in any case the taxing

of site values could never be more than a supplementary source of income.

It is doubtful whether any solution to the problem of ensuring to local government a revenue adequate to its tasks is possible without an altogether new approach. The traditional view that the revenue from the rates 'belongs' to local authorities, or that the revenue from income tax or from indirect taxation 'belongs' to the central government obscures the fact that the relationship of government to its revenue is not one of beneficial ownership, but of trusteeship; the citizens collectively agree to put a certain share of their individual wealth under public management, and there is no more reason why revenue arising from rates should not be managed by the central government than there is why revenue arising from national taxation should not, in part, be managed by local government. Thus, there is no infringement of political propriety in suggesting that each local authority should be assured, as a right, of a share of the national income sufficient to enable it to perform certain specified essential services at least to a prescribed national minimum standard. To devise a formula which secured to each authority its equitable proportion would be difficult but not impossible, and would indeed be carrying but a stage further the policy underlying the general grant formula in the 1929 and 1948 Acts. Which were the essential services to be so financed and the minimum standards to be prescribed are questions that Parliament would have to determine, and the answers

given would doubtless vary from time to time. Numerous attempts have been made to divide services into the categories of national (or onerous) and local (or beneficial). The Royal Commission on Imperial and Local Taxation in their *Report* issued in 1901 whilst admitting that 'the distinction cannot be drawn with absolute logical precision' thought that poor relief, police and criminal prosecutions, education, and main roads should be classed as national services. That list could not now be regarded as exhaustive, but the principle of the broad distinction between 'national' and 'local' services is sufficiently accepted for it to form the basis on which a formula could be constructed for apportioning to local authorities their respective shares of the national income.

Local interest and initiative would atrophy if authorities wholly depended for revenue upon their allotment from the central pool. The cost of non-essential services, and the cost of maintaining essential services in excess of the national minimum standards, should be met from local financial resources. Thus, local people would still have a necessary and direct interest in the cost of local services. As a means of raising the required supplementary income a revised rating system could be retained. An improvement could be made by introducing graded reliefs according to family commitments, as is customary with other forms of direct taxation, and certainly the exemptions granted to industrial and agricultural properties by the 1929 Act would have to be looked

at again. A solution might be found along the lines of differentiated rate-poundages for different kinds of property—residential, industrial, commercial, agricultural, and so on—or a uniform rate-poundage and differentiated standards of assessment of rateable value might be employed. This would not be altogether an innovation, for special and to some extent fictitious methods of assessment of special kinds of property are now in force. In either case both ability to pay and benefit derived could be taken into account in devising a method of raising revenue which would secure at least an approximation to justice in distributing the local burden.

One disadvantage of these proposals must be frankly faced and accepted. Some areas are wealthier than others, and those areas could afford better services, or the same standard of service at the cost of a lighter burden, than the poorer areas. There is no way of avoiding that discrepancy except by charging all social services upon national funds; but the removal of financial responsibility would lead to the decline of other forms of responsibility and eventually to the disappearance of all local self-government. Complete social justice can be obtained only at the price of the complete exclusion of diversity and of local initiative and discretion. There is no escaping the dilemma. Some men—benevolent autocrats and extremist ‘planners’ amongst them—would regard social justice as worth the sacrifice of self-government; others would be content with a comparatively rough-and-ready justice (and can any

form of human justice be anything more?) if men could be left more freedom to work out their own destinies, to achieve their own triumphs—and to make their own mistakes.

Because the well-being of certain local government services, in particular those which would be financed from the central pool, is of national concern, the central government, as already stated, must retain an oversight of the work of local government, and no doubt the convenience of financial sanctions, i.e. the withholding of payments from the central Exchequer, would make their continued employment desirable. But the whole basis of the financial structure would be different from the present distribution of part of the national revenues to local authorities through State subventions which can in fact be withheld at the decision of a Government Department. Under the suggested new system payments out of the central funds should not be suspendable merely on the decision of a Department, however well-informed and well-intentioned, but only after a judicial investigation by the Administrative Tribunal, in relation to which the role of the Department would be that of prosecutor. Financial sanctions admittedly seem illogical in operation: a local authority service fails to reach the prescribed standard, and therefore the funds required to maintain the service are withheld in order to enforce its improvement. But indirectly the sanction has the desired effect for there is an irreducible minimum below which the local people, purely as a matter of

self-interest, dare not allow the standard of essential services to sink, and therefore the withholding of grant would transfer the burden from national to local funds. When men's pockets are touched their minds and consciences become effectively active; 'purse is Government's hell' Chaucer might have said.

The problem of local government finance has become crucial. The rates system is inadequate to modern needs and inequitable in its incidence; the trend towards greater dependence upon State subventions is accompanied by a trend towards the curtailment of local autonomy. It was through the power of the purse that Parliament gained control over the King's actions, and it is through the same agency that, most probably without malice aforethought, the independence of local government is being weakened.

CHAPTER IV

THE STRUCTURE OF LOCAL GOVERNMENT

THE argument for making fuller use of local government fails unless an effective local government system that matches current needs can be devised. The problem of finance has been dealt with; the question of the *units* of local government must now be considered. The existing structure is notoriously unsatisfactory, nor could it be otherwise in view of the haphazard nature of its growth. Two units whose boundaries have little changed, the county and the parish, were evolved a thousand years ago, neither of them for the purpose of representative local government; one was primarily a judicial and military, the other an ecclesiastical unit. Urban and rural districts, on the other hand, were late nineteenth-century creations specifically related to the needs of local government as they were then conceived. The era of the continuous enlargement of the sphere of local government activity dates from the 1830's, but in selecting the local authorities to undertake additional functions, as it has had to do from time to time, Parliament has evidently been influenced sometimes by other considerations than those purely of good government. Moreover, boundary revision has not kept pace with

population changes, so that towns such as Brighton and Hove, for example, although they have grown together into one large 'urbanity', are yet separate local government units.

Not surprisingly, therefore, the structure of local government has been under examination in recent years, and various schemes of reform have been proposed. Part of this discussion has been, openly or covertly, a defence of vested interests in local government, the exponents of each scheme tending to see as the ideal that kind of authority with which they themselves are connected. The right approach is, patently, to consider first the job to be done, then what is the best method of doing it, and finally, whether in the interests of administrative convenience and expediency, some compromise must be accepted between the theoretically best method and the reasonably practicable. It could not be expected, however, that this method of approach would immediately suggest itself to the various local authority associations, such as the Association of Municipal Corporations and the County Councils Association, whose attitude to the problem of reform is bound to be conditioned by their various experiences and histories.

Local authorities vary in type from the special one-purpose authority, such as the Metropolitan Water Board or the West Kent Sewerage Board, to the factotum of local government, the county borough; in size they vary, within the same category, from the county of Rutland (population 17,000) to the county

of Middlesex (population over 2,000,000), and from the county borough of Canterbury (population 23,000) to the county borough of Birmingham (population over 1,000,000). Yet *all* counties are given by public general statutes the same powers and duties, as though they were all comparable in size and resources, and the same is true of county boroughs. So far as a principle is discernible in the distribution of functions between different types of local authority it is that all counties and county boroughs are large, and should therefore deal with the major services, and that all non-county boroughs and urban and rural districts are small, and should therefore be limited to the minor services; yet this assumed principle is manifestly at variance with the facts.

Strong arguments can be adduced in favour of the all-purpose authority, and it is a little unfortunate that since the county borough is the only all-purpose authority to which this country is accustomed the discussion of the merits of the all-purpose authority has tended to become confused with the separate question of the merits of the county borough. Amongst the advantages of the all-purpose authority are: that it secures the unification of local government; that the danger of different authorities with intersecting spheres of work pursuing conflicting policies is avoided; that it presents a unitary conception of local government as opposed to a congeries of unrelated activities; that only one rate need be levied (although this might cease to be so important a

factor if local government finance were radically reformed); that the ordinary citizen, under the all-purpose system, knows where he stands, because he has only one authority to look to whereas now, in the country, he has to contend with three (parish, rural district, and county) and in most towns with two (urban district or borough, and county); that the number of available and suitable candidates for election to local authorities is so small that it is better to entrust local government to one body of competent elected representatives than to distribute it between several bodies, the average standard of whose members cannot be expected to be so high; and lastly, that if there is only one local authority the electoral system is simplified. However, some of these advantages exist in theory rather than in practice. For example, it is possible, and even likely, that the extent, complexity and variety of the work of a large authority will make necessary the delegation of responsibility to committees and will lead to so much departmentalization that a unitary policy may be difficult to evolve or, if evolved, difficult to pursue consistently. On important issues of major policy the all-purpose authority can probably ensure that serious conflicts of interests and of purpose are resolved, but where differences of administration arise in practice they are usually not on major policy but on matters of small intrinsic importance (however irritating the consequences of the disharmony may be to the people most concerned) and of a kind not likely to be foreseen, nor likely to be avoided by

the concentration of all local government powers into the hands of the same authority. Difficulties of this kind cannot in fact be avoided by any refinement of the machinery of local government, but only by intelligent co-operation between all those, especially officials, whose work has points of intersection. Co-operation is not inhibited because officials are in the service of different authorities nor is it automatically engendered because they are in common employment.

Whether the position of the ordinary citizen under the all-purpose authority is really much improved is doubtful, for he is as likely to be bewildered by the multiplicity of departments as by a multiplicity of authorities. The conclusive argument against the all-purpose authority, however, is the variety of services that local government provides. They are so varied that the unit which is suitable for one, or some, services cannot be suitable for all; for some services a small area or a small population group is the best unit, for others a wide area or a large population group is required. This inherent defect in the all-purpose authority is least marked in the county borough, where the area is small enough to impose a degree of homogeneity, yet the population large enough to support most services. Thought of solely in terms of urban interests the all-purpose authority as exemplified by the county borough has much in its favour; but the artificial abstraction of certain urban units has a debilitating effect upon the local government of adjacent areas, and therefore upon the

system of local government as a whole. Little Jack Horner was doubtless satisfied with his Christmas pie, but if the plumless remnants were passed on to his younger brother to finish, *he* probably took a less favourable view of the concoction.

At the opposite end of the gamut to the all-purpose authority is the *ad hoc* authority. As the description implies it exists to serve one purpose only, and therefore can be fashioned to that specific purpose without being warped from its right nature by any extraneous consideration. In fixing the unit regard need be had to the particular service to be provided, and to nothing else. Candidates offering themselves for election to the authority, so the argument runs, will do so because they have a special knowledge of, and a special interest in, the particular function which that authority exists to perform; the members of a multi-purpose authority must be Jacks-of-all-trades. In any highly developed system of technics, such as local government is becoming, specialization is the norm, the medium through which further advance is made, and the *ad hoc* authority, with its ability to concentrate all its energies on its one specific job, is the recognition in local government of the inevitability of specialization. At the present time the notion of the pure *ad hoc* authority is unfashionable—partly perhaps because comparatively few such authorities exist and they have no association, comparable with the County Councils Association or the Association of Municipal Corporations, to keep their attractions in the public mind—but in

practice bodies which differ little in substance from *ad hoc* authorities are increasingly being created in the guise of Joint Boards and Joint Committees.

Critics of the *ad hoc* authority point to the chaotic and inefficient state of local government in the middle of the nineteenth century when such authorities abounded. The inefficiency was not solely due to the defective machinery of local government, but it is no doubt true that a system based upon *ad hoc* authorities would be difficult to operate, and in fact to constitute a separate authority for each separate function would be impracticable, even if it were possible to settle what amounted to a separate function. Experience suggests, too, that it would be uncommonly difficult to get enough suitable volunteers to man all the authorities, and the electoral system would become so complicated as to baffle the ordinary voter. True, all the elections might take place at the same poll, and the Englishman would be in no worse position than the citizen of the U.S.A. who is invited to vote at one time for candidates for twenty or thirty offices, and the American who will put his political conscience into the keeping of one of the parties by voting the Republican or Democrat ticket finds not only that he is saved the trouble of thought and discrimination but also that the electoral process is much simplified. However, it is a method of simplification which most people would not like to see introduced into this country.

The all-purpose authority, at the one extreme, and the *ad hoc* authority at the other both have their

drawbacks; no one pretends that the present pattern of local government is ideal; what is the right solution to the problem? Various suggestions have been put forward, some emanating, like the *White Paper* of 1945 and the Boundary Commission's *Reports*, from official sources, others from political parties or associations connected with local government. Amongst the non-official proposals which have been published are those of the Association of Municipal Corporations, the Labour Party, and the National Association of Local Government Officers.

A powerful section of the Association of Municipal Corporations would like to see local government organized on the basis of all-purpose authorities. Their areas would necessarily be large, because for certain purposes large units of administration are essential, and the minimum size of an all-purpose authority is therefore predetermined. That such an organization may be the most satisfactory under certain conditions is no doubt true, but that a uniform organization of this kind would accord with the needs of localities as different as Middlesex and Herefordshire, or the West Riding of Yorkshire and Cornwall, is incredible. The Association of Municipal Corporations is naturally mindful of the virtues of the compendious county borough administration, and their reform proposals seem to suggest that the county boroughs, fearing that their position may be questioned, have decided boldly to carry the war into the enemy's camp.

The Labour Party's scheme was for a two-tier

system, with Regional and Area Councils, both directly elected. This bears an obvious resemblance to the existing local government structure in towns (other than county boroughs) where functions are shared between the county council and the borough or urban district council. To say that the term 'region' used in relation to local government affairs has become ambiguous would be an understatement. The Labour Party's suggestions for regional authorities have no affinities with the 'Regional' Civil Defence system which acquired so mixed a reputation during the war, nor with the since continued establishment of regional offices, as outposts of Whitehall, by some Government Departments. Under the Labour Party's scheme the 'regions' would, in population, be about the same size as the larger existing counties—about 1,000,000. The regional authorities would plan for the whole of the region, and themselves carry out major services, whilst leaving details of administration and local schemes to the area councils. The simplicity of such an organization is attractive, but the area councils, if their areas were as large as suggested—a population of about 250,000 seems to be advocated—would be too large to be able to keep in close touch with local views and feeling, whilst if the areas were much reduced in size the disparity between them and the regions would be so great that effective governmental power would tend to gravitate to the region. A real co-operation between partners of extremely discrepant size, whether they be nation states, local

government bodies, or individuals, is usually hard to establish.

The *Report* of the Committee of the National Association of Local Government Officers bears evidence of much careful thought, and meets a number of criticisms to which the proposals of the Labour Party and of the Association of Municipal Corporations are open. The present Secretary of N.A.L.G.O., Mr J. H. Warren, contributed so largely to the preparation of the *Report* that the account of it given in his *English Local Government System*¹ is entitled almost to the respect of an official summary, and since it could not be bettered it is, with the kind permission of the author and publishers, repeated here:

... Like the A.M.C. Scheme, it [*sc.* the N.A.L.G.O. Committee's *Report*] recognizes the impressive virtues of the compendious principle as applied fully in the County Borough of to-day. Indeed, it analyses these virtues far more fully than either of the other two *Reports*, and is evidently desirous of pushing the compendious principle as far as possible—up to the point, that is to say, when its advantages are not offset by disadvantages of the kind which overtake the mixed super-scale area contemplated by the A.M.C. Thus it proposes that the primary unit of Local Government shall be a single all-purposes Authority, not unlike the County Borough of to-day, or for that matter the County Council, if all services were transferred to it and County boundaries were no longer artificial but were to follow real

¹ *The English Local Government System*, by J. H. Warren. Published by George Allen and Unwin, Ltd. 1946.

population groupings and characteristics. It recognizes, however, that the services mentioned above¹ need to be planned over larger areas. In the analysis of the situation made by the N.A.L.G.O. Committee's Report the need is not so much for these services to be administered over 'outsize' areas, as for them to be planned over such areas. Thus, even in the public utility sphere, the situation calls, in the opinion of the N.A.L.G.O. Committee, for a co-ordination of existing units and a better lay-out of resources, rather than for a consolidation of existing undertakings into units of super-scale size. Accordingly, the Report proposes that the services mentioned should be planned but not administered over wider areas. For this purpose it proposes, while recognizing the defects which mark indirectly elected bodies, that Provincial Councils indirectly elected by groups of all-purposes Authorities should do the planning; while the all-purposes Authorities, of about 100,000 to 250,000 population (or of higher levels in the big cities), should administer these services, and of course both plan and administer all the other services not requiring special treatment of this kind. The proposals contemplate central approval of the schemes for the planning and lay-out of the large-scale services, so that the all-purposes Authorities could administer them in conformity with arrangements binding on all of them which combine to appoint the Provincial (Planning) Council. In a word, the Provincial Councils would be scheme-making Authorities whose schemes are eventually made binding by central approval. Even

¹ I.e. town and country planning, public health and public assistance hospitals and institutions, major highway developments, provision for specialist and technical education, main drainage and sewage disposal, provincial library provision, and public utility services.

in the planning sphere, the Report finds virtue in the compendious principle and considers that it may be possible, in due course, if not initially, to combine a number of these scheme-making functions under one Provincial Council in the same area. The Provincial areas, single or multiple, would be on a limited scale when compared with the Civil Defence Regions. A further feature of the N.A.L.G.O. Scheme is that, while administration would be unitary in the compact administrative areas similar to the County Borough of to-day, District Councils or Committees would be set up for each well-recognized local community in the all-purposes administrative areas of mixed population characteristics, and these would exercise a substantial range of delegated power from the administrative Authority. The existing smaller Boroughs and Urban Districts could be fitted into a system of delegation of this kind and would thus preserve their identity as communities though they would lose the autonomous authority they possess to-day.

Compared with these reports, the *White Paper* on Local Government Reconstruction, published early in 1945, contained much less radical proposals, as perhaps was only to be expected of a document issued by a Coalition Government. The *White Paper* expressed the view that a remodelling of the structure, at least for the present, was unnecessary, and, indeed, undesirable, for revolutionary reform would hinder local government in carrying out its functions at the critical period of post-war reconstruction. Realizing that certain services require even larger areas of operation than a county or county borough, the *White Paper* proposed that, to deal with them, Joint

Boards or Joint Committees should be set up, for which there is precedent. It recognized that some authorities are plainly too small to be able to discharge their responsibilities, and recommended that as the existing machinery for the alteration of local government boundaries worked so slowly and so uncertainly a standing Boundary Commission should be established with power to alter the status and boundaries of any local authority, subject to Parliamentary approval in certain cases. These principles were accepted by Parliament, and found expression in the Local Government (Boundary Commission) Act of 1945. The Act set up a Commission, consisting of five members, with power to review, and make Orders for altering, the boundaries and status of local authorities for the purpose of making 'so far as is practicable, all local government authorities, both individually and collectively, effective and convenient units'. The Commission is required, therefore, to consider local authorities not in isolation but to take into account the effect of any alteration of boundaries or status upon all local government bodies whose problems are interrelated and who are likely to be substantially affected. Orders of the Commission bearing on counties and county boroughs must be laid before Parliament, but in all other cases the Commission's decision is final. The London area is, however, excluded from the purview of the Commission, because it presents unique problems, and is apparently considered to be capable of isolated treatment.

The *First Report* of the Boundary Commission, issued in April 1947, contained some interesting comments on the structural reform of local government. Particular attention was given to the county borough problem, and the *Report* classified under three broad headings the general suggestions that had been made for the alteration of the boundaries or status of county boroughs:

- (1) A limited extension of county boroughs, in accord with past policy.
- (2) Large extensions of county boroughs, resulting in some parts of the country in the creation of a solid block of county boroughs.
- (3) The creation of new county areas within which all existing county boroughs would relinquish their county borough status.

The second of these suggestions is generally in agreement with the views of a section, at least, of the Association of Municipal Corporations, the third nearer to those of the Labour Party. The justification for the second course, that is the large extension of county boroughs, is said to be: first, that the one-tier system is the most convenient and effective form of local government in places where there is a concentration of population within a confined area, and that the local government machine brought into being to serve the needs of the town could well be made to serve the needs not only of nearby urban areas but also of villages and rural territory within reasonable distance of the town hall; secondly, that where part of the population of a county borough

must emigrate, because of redevelopment or war damage, the borough boundaries should be extended to cover the new colonies; and, thirdly, that the modern idea of a complete community unit involves large requirements of land for school playing-fields, open spaces, community centres, clinics, health centres, and many other municipal services.

The third suggestion, which had particular reference to the Manchester district, has been further worked out in the Commission's *Second Report*. This *Report*, published in April 1948, questions the fundamental thesis of the *White Paper* (itself the genesis of the Commission) that the present is not an opportune time for any root-and-branch reform of local government. It explains that the Commission, after two years' existence, had found themselves unwilling to make a single Order altering the status or boundaries of any local authority because '... it is nonsense to talk about boundaries and functions separately',¹ and their jurisdiction does not extend to functions. The *Report*, which sets out the Commission's considered views as to the lines along which local government reform ought to proceed, boundaries, status, and functions being regarded not as separate problems but as different aspects of one problem, is therefore an invitation to the Legislature to enlarge the Commission's terms of reference.

The *Report*, after analysing the weaknesses of local government—amongst which is rightly included the

¹ Mr Aneurin Bevan, M.P., in the House of Commons, 16 December 1947.

uncertainty and jockeying for position which are concomitants of the repeated conflicts between counties and county boroughs over the creation of new and the enlargement of existing county boroughs—restates the arguments for and against one-tier and two-tier systems, and makes no attempt to conceal the dilemma that, because of the unevenness of the spread of population, there will frequently be antinomy between 'effectiveness' and 'convenience' in units of local government administration. The main recommendations made by the Commission are:

- (1) That there should be three main types of local government unit—counties, county boroughs, and county districts (all non-county boroughs, urban districts, and rural districts being assimilated under this last category).
- (2) That England and Wales should be divided into new counties, most of them (with populations as nearly as possible between 200,000 and 1,000,000) being administered on the two-tier system, but some (the large cities and towns with a population usually of between 200,000 and 500,000) being one-tier authorities.
- (3) That county boroughs (generally with a population between 60,000 and 200,000) should become 'most-purpose authorities', but should be part of the county administration for police and fire services, for town planning in broad outline but not in detail, and for 'such matters as land drainage, small holdings, remand homes, approved schools,

road fund and local taxation licences, and diseases of animals', none of which, as the Commission quietly observe, 'is a matter of prime importance to town government'.

Although the Commission have been influenced by the desire to secure as large a measure of agreement as possible—some of their recommendations bear the stigmata of compromise—the *Report* is bound to provoke controversy. The county councils, for example, will probably not see much difference between the new 'most-purpose' county borough, and the old 'all-purpose' county borough; there will be doubt whether the lower limit of population for county boroughs, namely 60,000, has not been set too low, and whether here convenience has been the overriding factor, since the limits proposed by the Commission would mean the degradation of very few existing county boroughs—perhaps eventually only one; there will be doubt whether financial problems, which are mentioned in the *Report*, have been sufficiently considered; and particular proposals will inevitably upset local loyalties and sentiments. With all this the *Report* remains one of the most significant recent contributions to local government reform.¹ It partly, but not wholly, escapes a defect which has marked all the other projects for reform so far put forward: they attempt to create a uniform pattern of local government to fit conditions which are not uniform. Everyone recognizes

¹ Another recent notable contribution is Professor G. D. H. Cole's *Local and Regional Government*.

that London, being *sui generis* (fortunately), presents unique problems of government and therefore requires special treatment. But even with London abstracted, the rest of the country does not afford such a degree of homogeneity that the local government structure which suits one part necessarily suits another. It is a major demerit of the existing structure that, in general, every rural district has the same powers as every other rural district, every municipal borough the same powers as every other municipal borough, every county the same powers as every other county, and so on, irrespective of their widely differing areas and populations, needs and resources, and that the same general categories of authority are found in regions as widely different as industrial Lancashire and rural Devon, or suburban and densely populated Surrey and sparsely peopled Herefordshire. For example, for administrative purposes a largely residential rural district such as Eton, a mining district such as Easington, and an agricultural district such as Bellingham in Northumberland must be regarded as comparable units of administration, in spite of the fact that not only are the qualitative differences between them more noticeable than the similarities, but also, as the following statistics show, the quantitative differences are significant:

	Population	Area	Rateable value
Eton . . .	43,000	35,500 acres	£403,000
Easington . .	80,000	35,000 „	£301,000
Bellingham . .	4,700	246,600 „	£43,000

The Boundary Commission, in their *Report* for 1947, say that what is right for one county or county district is not necessarily so for another, and they have therefore departed from their general principles where local circumstances warrant it, e.g. in the proposal that Liverpool and Manchester should be two-tier counties, instead of one-tier counties, and in the refusal, in the interests of Dorset administration, to join Bournemouth and Poole together as a one-tier county. Moreover, the Commission suggest that some county districts, with small resources, might relinquish functions to the county, whilst powerful county districts should receive delegated functions from the county.

The Commission thus recognize, first, that functions must be dealt with as an integral part of local government structure, and, secondly, that not all local authorities falling within the same category will necessarily exercise the same powers. But the Commission's views still seem to be coloured to some extent by their original terms of reference, when they were given the boundaries and status of local authorities as their field of operation; if they had started from functions instead of from boundaries and status they would probably have produced a quite different set of recommendations. Such speculation prompts the suggestion that it would be more profitable to approach the problem of the units of local government by considering the actual needs of actual areas, and not by postulating the ubiquitous suitability of certain preconceived types of local

authority. To work out, in detail, a solution on these lines would be no mean labour. It would involve taking each part of the country area by area (the areas would have to be arbitrarily selected in the first place, and some of the areas first chosen would no doubt on investigation have to be regrouped or subdivided) and considering what, for each part of that area, would be the most convenient local government unit for each social service, regarded separately. It might be found, as suggested by the N.A.L.G.O. Committee and, more recently by Professor G. D. H. Cole, that some services should be planned by regional authorities and administered by smaller, local authorities, a distinction corresponding roughly to that between a county education authority and its divisional executives (p. 26).

Carried to the extreme limit the pragmatic approach would require the establishment of a large number of *ad hoc* authorities, but because of the difficulties, already referred to, which the creation of such authorities would cause the process would need to be halted short of that point; judicious compromise, which did not sacrifice fundamental principles, would probably show that eight or ten types of authority, differentiated by the combinations of functions which they performed, would be enough to meet the needs of the whole country, varied as they are. Not all of those units would co-exist in the same area; some would be appropriate to one set of conditions, others to different conditions.

There is another direction in which the 'fitness for

function' criterion requires qualification. Units must be chosen not merely as being administratively convenient for the performance of a particular service, but also with reference to their existence as natural units of local government. 'Mere locality does not constitute a body politic', as Burke said. It is hard to define what does, but certainly, for a viable unit of local government, it is imperative that the people living within the area should feel enough sense of community—a sense of matters in which they feel a common interest, whether they relate to economics, industry, trade, topography, tradition, or even sport—that the grouping of them together does not result in a purely artificial unit, such as are many Rural Districts, and some recently created Boroughs and Urban Districts. To dogmatize on the natural units which command men's loyalties and affections is dangerous, but it would generally include the village; the town, and in the case of a large town often some comparatively small part of it; the market town and its surrounding countryside; sometimes the river valley; the county, usually, and more rarely an area comprising two or three counties.

It seems often to be overlooked that local government units should be the *smallest* compatible with the efficient performance of the job to be done, so that the nexus between the organization and administration of the service and the people for whose benefit it is provided may remain as intimate and personal as the nature of the service permits. Large units, which result in reduced overhead costs (up to a

point) and make the employment of specialist staff possible, are essential for certain purposes, but the present tendency towards the big authority sometimes smacks of worship of size for its own sake. Moreover, experience proves that for efficiency of administration, whether it be in central or local government, in industry or commerce, or indeed in any institution, not excluding the private household, there is an optimum size of unit. Let the unit be enlarged beyond a certain point, and the problems of administration not merely increase in number and volume, but also take on a different quality. An immediate and serious problem is the almost inevitable detachment between those who administer and the service administered, leading probably to an undue emphasis on means at the expense of ends. It also results in the influence of the highest-ranking officers in the administrative hierarchy (who are presumably the best and the most enlightened) becoming progressively less effective as the organization grows in size, because their inspirations, ideas, commands and exhortations must pass through so many inferiors that they lose their personal flavour before they reach the point of active impact. Certainly the optimum unit of organization for the varied purposes of government is a subject deserving of more thought than so far seems to have been bestowed upon it.

London, as already stated, is a problem on its own, or rather a series of problems. There is the minor problem of the continued existence of the

anachronistic City of London as an independent authority, the problem of the proper distribution of powers between the London County Council, on the one hand, and the Metropolitan Borough Councils, on the other, and the proper relationship between them, and the major problem of Greater London, consisting of the City of London, the County of London, the county boroughs of East Ham, West Ham, and Croydon, almost the whole of Middlesex, and parts of Essex, Kent, Surrey and Hertfordshire, an almost continuously built-up area with a population exceeding that of a dozen European states, or that of Canada, Australia, or the Union of South Africa. The term 'local' government as applied to so vast a group of inhabitants is almost a misnomer, but for the planning of certain social services Greater London needs to be regarded as a local unit. A possible governmental structure would be: first, a regional authority, for the whole of Greater London; the division of the region into four or five areas corresponding roughly with counties; the sub-division of the 'counties' into boroughs; and, finally, the subdivision of the boroughs into wards, not as mere electoral devices, but as lively, though minor, organs of local government. Because London government at the regional level, through its inevitable influence on the central government, would be of national as well as of local importance, there would be grounds for having, on the regional authority, limited representation of other interests than those of London alone,

The moral which this chapter seeks to point is that the problem of local government units must be tackled empirically, starting from particular services and particular areas and not from *a priori* assumptions. It must perforce remain an unsatisfactory chapter, for the only way of demonstrating the soundness of these suggestions would be to show how they would work out in practice for at least one particular area, if not for the country as a whole, considered area by area. It is difficult to show on *general* grounds the validity of a thesis which maintains that the answer to the problem must be found by aggregating the answers arrived at from an examination of *particular* instances. But to have shown how this method of approach might be applied in even one county (not a typical county, for what county is typical?) would have swollen the chapter to dropsical proportions. Besides, it is not a task to be attempted by an individual, but requires the attention of a group of people versed in the art of government and acquainted with the various parts of the country.

One thing that is certain is that a local government structure built on these lines would not be a tidy piece of administrative machinery. However, every system of government is a means, not an end in itself; it does not exist that academicians may occasionally take an æsthetic delight in the symmetrical beauty of its structure, but in order that by co-operative action men may further ideals which they hold in common. It is more important that necessary social services should be provided, and

provided efficiently, and that democratic principles should be preserved (perhaps the adjective retains a specific enough meaning to permit its use in this context) than that local government should be so organized that its structure can be represented by an attractive text-book diagram. After all, who suffers if in one area the functions x , y and z are performed by authorities of types X , Y and Z , whereas in another area of different character they are the duty of authorities of types M , N and O ? Systems of government are human devices, and to problems of government organic, not mechanistic, solutions must be sought. Unfortunately, the mechanistic approach is often evidenced in contemporary discussion of local government reform, and there is a tendency to give more thought to neatness of method than to value of ends.

CHAPTER V

POLITICS IN LOCAL GOVERNMENT

WHETHER party politics have a place in local government is a question on which opinion is still divided. According to one view local government has got along very well without the introduction of politics, and anyway its business is to find practical answers to actual problems most of which do not admit of settlement on a party basis. According to the other view the questions which arise do, for the most part, involve the application of principles on which the political parties are divided, and it is dishonest to hide the fact; the allegation that party politics have not entered into the counsels of a local authority simply means that its politics have been Conservative; and, further, the open introduction of politics leads to a much needed increase of public interest in local government.

Of these two views the second is probably nearer the truth, and the question which really ought to be asked is not whether party politics have any place in local government, but what is their function in local government. And here it will be useful first to attempt to discover the essential principles by which Right and Left are separated in politics. The fundamental differences are not enshrined in the declared policies of the parties, for they, properly, change

from time to time, since a policy is an expression of a political philosophy as applied to a given set of facts in given circumstances, and facts and their circumstances are constantly changing. The spectacle of a Labour government introducing military conscription or of a Conservative government nationalizing a monopoly is not a subject for cynicism, but a demonstration that whilst ideologies are what their name implies, policies must have regard to contemporary realities.

But there are permanent differences between Left and Right—not differences of motive, for only the most bigoted partisan fails to recognize that his opponents are moved by the same laudable and altruistic desires as himself—but differences in habits of thought. The man of the Left reasons deductively, seeking to formulate general principles, whereas the man of the Right, whose reasoning is an inductive process, concentrates upon finding not a general principle but the fittest solution to the concrete problem which lies to hand. The first method results in rapid change founded upon speculation, the second in slower—sometimes distressingly slow—progress grounded in experience and tradition. The first is the method of the Legislature, the second of the Common Law Courts, and he would be a bold man who would venture to assert which of those two institutions has made the greater contribution to our way of life. Certainly in government there is need of both methods, for each has its strengths and each its weaknesses. They are essentially complementary. To offer

an analogy, the man of the Left is like the traveller who, keeping his gaze fixed constantly on the peak which is his journey's end, runs the risk of stumbling into the unnoticed pitfalls at his feet; the man of the Right is so diligently preoccupied in avoiding the immediate pitfalls that, having no time to check his bearings, he loses his way and wanders in a circle. Their destination is the same, although they are usually reluctant to admit it, and if the two can but accommodate their paces, within measure, they are more likely to arrive safely at their goal—even if during the journey they argue continuously about which is the best route to follow, and even if one of the travellers is labelled 'Government' and the other 'Opposition'.

Traditionally the business of government is divided into the legislative, executive, and judicial functions, executive here meaning the administrative function which, as noted on p. 7, shades off on the one hand into legislation and on the other into adjudication. The deductive method (tempered by pragmatic reference) is the foundation of the legislative process, whereas the inductive method is that typically employed by the English judiciary. It is significant that, whilst party politics are generally accepted as having the main part to play in the shaping of legislation, there is equally general agreement that they must be excluded from any participation in the judicial function. Administration therefore seems, on theoretical grounds, to be, as to one part a fit subject, and as to another part not a fit subject for the inter-

play of party political forces. Experience confirms the soundness of this theoretical conclusion. Since local government is concerned chiefly with administration, with the application of given general principles to particular situations, it follows that any attempt to give to party politics the *same* place in local as in central government is based on mistaken premises. Local government above all calls for the devising of common-sense solutions to concrete problems, and it is refreshing to find how often in practice the common sense of the Socialist, the Liberal and the Conservative, when they are faced with the same problem, will produce the same answer. There is frequently a noticeable difference between Mr Smith, Conservative Member of Parliament, and the same Mr Smith, Town Councillor; between Mr Jones, Labour Member of Parliament, and Mr Jones, Town Councillor. Indeed Mr Councillor Jones may sometimes find himself in closer agreement with Mr Councillor Smith than with Mr Jones, M.P. Local loyalties cut across party ties, and members of all parties, and of none, are found combining to promote common interests.

Not only the primary functions but also the machinery of Parliament and of a local authority are different. The Mayor, or Chairman of the Council, is Speaker as much as Prime Minister; the position of Chairman of a Committee only very superficially resembles that of a Minister of the Crown, for whereas the Minister is himself personally responsible for decisions and actions taken by his Department, in

local government any such responsibility rests upon the committee, not upon its Chairman personally; and the Cabinet has no real counterpart in local government, save that a few of the larger authorities have attempted to set up 'co-ordinating committees' under one title or another. But, generally, a body corresponding to the Cabinet has no purpose in local government. The Cabinet is concerned mainly with the direction of legislation and matters involving high policy, seldom with the routine administrative aspects of the work of the Departments; a local authority, whose main concern is administration, has no need of a *junta* to settle the course of its rare legislative and quasi-legislative activities.

Nor is there, in local government, need for a strict government and opposition alinement. Its introduction brings with it inconveniences which are evident in the working of Parliament and are there tolerable only because no other system of representative government has been devised which enables a consistent policy to be maintained in the weighty and varied issues of national concern. There is no convention that a local authority committee bringing forward a proposal which does not secure the approval of the council should resign, and there is no process comparable with a dissolution of Parliament and an appeal to the electorate. Strict party discipline, without which no Parliamentary government would feel comfortable, is therefore out of place in the affairs of a local authority, where a good deal of independence can be allowed to members without

endangering the operation of the governmental machine.

Interesting illustrations of how the 'government and opposition' system actually works where it has been adopted in local government are given in *The Pilot Guide to Political London*, written by two members of a Metropolitan Borough Council. Under this system it is customary for each party to meet together privately in advance of meetings of the Council to decide the 'party line' on the issues which are to come before the Council, and the party line having been determined, the party member is expected to conform to it. Undoubtedly members of authorities always have met and always will meet together in groups, large or small, at which Council business is discussed, but casual discussion is not the same thing as an organized prejudging of the issues which are to come before the authority for determination. The defects, actual or potential, of such a system are obvious; the prejudging takes place in private, and in the absence of the other side; it reduces to mere formality the public debate at the Council meeting itself, since members come to it with a deliberately closed mind, unsusceptible to anything that may be said, however pertinent, on the other side of the argument; officials are not available to give any information required in order that conclusions may be founded on accurate premises; and a bare majority of a party which has itself only a small majority, although it represents a minority of the whole council, will nevertheless prevail, so that the system may cease to be

democratic even in form. A remoter danger, perhaps but one that exists, is that the line to be followed may not emerge from free discussion amongst the members of the party but may be indicated by 'Headquarters'. Party organization, unless it is free from oligarchic or bureaucratic taint, may have a cramping influence on local government, and may even stultify the purpose for which local government exists—the devising of particular forms of collective action to meet the needs of particular groups of men and women.

Finally, the ludicrous attempts that are sometimes made to subsume all questions, however inappropriate, under headings which will accord with party principles and to ferret out differences of view where none really exists do a disservice both to local government and to party politics by diminishing their reputation with thinking people. It is as futile to manufacture differences for their own sake as it is dishonest to refuse to admit them where they exist.

All these defects are due not to the introduction but to the abuse of party politics in local government. Party politics have got a legitimate part to play. At their best the parties are a valuable, and indeed indispensable, agent in the political education of the public, and any means that can be found of educating people as to their rights and duties in local government deserve encouragement (see Chapter VII on 'Public Apathy'). Experience shows that the introduction of party politics usually results in an increased interest in local government—or at least in an in-

creased number of voters: the two things are not the same, because a party candidate can count on attracting a number of automatic votes given with no true understanding of the issues involved, or even any desire to understand them. Again, the party machinery serves something of the same purpose as the American presidential 'primaries', a recognized means of preliminary selection which ensures (or should ensure) that those candidates who submit themselves for election are, on the whole, the most suitable.

But apart from the educational and selective functions that political parties perform, in any system of organized governmental power groups of like-minded persons are bound to emerge, most probably with some reference to their political sympathies, and that is a far more satisfactory bond than some common self-seeking purpose. The error lies in thinking that there is some inherent impropriety if all the members of the group are not of the same mind on every question. Provided that members do not surrender their political consciences to the parties to which they belong, the emergence of party groups may be an advantage. As a minimum an elector can reasonably expect to know to which party, if any, a candidate who solicits his vote belongs, for this is one, though it should be only one, of the grounds on which he will decide how to bestow his suffrage.

Party politics, therefore, have a more modest part to play in local government than in the affairs of Parliament. Without the party system Parliament could

not work; local government can. Over-insistence on the role of party politics in local government suggests sometimes a keener interest in party fortunes than in good government, whilst the opposite extreme, the refusal to accord them any place, is often tantamount to a refusal to face facts. The precise function which the parties should seek to perform is not capable of definition; it is another problem to which only political good sense can supply an answer. Without that there is a danger that local government may be diverted from the true purposes that it exists to serve, and may become merely subservient to the interests of political party organization.

CHAPTER VI

MEMBERS AND OFFICIALS

LOCAL government will not flourish unless the men and women responsible for its working are inspired by the right ideals and have the necessary technical ability. But it is not sufficient merely to elect good members and to appoint good officials; their respective spheres of activity must be delimited clearly enough to prevent overlapping and misdirection of effort. Traditionally the function of the elected representative is to decide policy and the duty of the salaried official to execute that policy and to settle minor questions not involving matters of policy. So simple a division of functions does not correspond with the facts of present-day local government. Important though this question of the respective spheres of member and official is, it has been little discussed, partly perhaps because its significance has not been sufficiently recognized, partly because of an understandable and not entirely reprehensible feeling that it is scarcely decent to seek to peer behind a well-established façade.

Diametrically opposed to the traditional view is the often encountered current cynical allegation that the members' field of decision is limited to the trivial—that they settle such unimportant points as the number of hours that the office charwomen are to work

or whether the typist shall have a rise of 2s. 6d. a week, but that the major issues, involving questions of policy, are left to the officials who alone have the specialist knowledge to handle them. This equally mistaken view about the function of members and of officials results from a failure to distinguish between *initiation* and *decision* of policy. It is true that as the social services administered through local government develop, becoming wider in scope and more efficient in operation, greater technical knowledge is called for. Where once the oversight of the highways required only such common sense as any two of the more substantial parishioners could be expected to possess it now demands the expert skill of specially trained engineers; the relief of the poor is no longer thought of as needing merely the application of a peculiar combination of charitable instincts with business acumen but is recognized as calling for suitable training and experience; in questions of medical treatment it would be presumptuous for laymen to intervene, and so on.

The need for specialist knowledge in such services as these is obvious. What is equally true but perhaps less obvious is that even in those services in which non-experts feel competent to offer valid opinions the first formulation of policy must usually rest with the official element of a local authority. A town-planning scheme, for example, must in the first instance be the work of planning technicians, although the idea that a scheme should be prepared need not have originated with them. Or consider again the 'development

plans' which local education authorities were required under the Education Act of 1944 to submit to the Minister of Education, showing how, on the basis of a survey of the needs of their area, the authority proposed to carry out their statutory duties towards primary and secondary education; here the initiation of policy really begins with the Act of Parliament but the drawing up of a draft development plan, because of the amount and nature of the work involved and because of the technical knowledge required, must be done by the officials. The present tendency is for ideas on subjects of major importance to be initiated less and less frequently by the non-expert and more and more frequently either by an official or by a Government Department, but in whatever way the idea originated its development in a particular context as an administrative proposal will almost certainly be the work of an official. At that stage it is, however, not an enunciation of policy but only an administrative proposal.

The translation of proposal into policy is the function, and the foremost function, of the elected representatives. The acceptance, amendment, or rejection of the proposals put before them is at the discretion of the members. It is for them to decide whether the proposals fall short of, exactly meet, or overpass the needs; they can, when necessary, apply the brake of common sense to any extravagant excursions of the experts. In respect of this function the elected representatives have an affinity with the British jury. It is the official's duty to expound the whole case as clearly

and objectively as he can, even offering his own views when he thinks that would help towards a decision (as the judge may do in his summing up to the jury) but the final decision—the verdict—lies not with the experts, whose tendency is always to see one part of the truth with so dazzling a brilliance that they fail to see it whole, but with a group of ordinary men and women.

This view of the relationship of expert and layman, of official and non-official, is not upset by the fact that certain committees of an authority may include as co-opted members persons from outside the body of the authority who have special knowledge of the work of those committees. Such members can indeed sometimes give a committee invaluable help in its deliberations, and the power to co-opt members could with advantage be used more courageously and more imaginatively than is now generally the practice. In form it looks 'undemocratic' and is no doubt suspect for that reason, although it would not offend Mazzini's definition of democracy as 'the progress of all through all, under the leadership of the wisest and best'. However, the co-option on to certain committees of a few specially knowledgeable members is an exceptional process, and does not alter the fact that the function of the elected representative requires versatility and a general interest in local government, coupled with common sense and quickness of perception, rather than a high degree of specialization in some one part of the field.

A second function performed by the members is to

act as auditors or 'visitors', to whom periodically—weekly, monthly, quarterly, yearly—the official must render an account of his stewardship. The mere knowing that some day actions and inactions must be accounted for and will be open to challenge and criticism is a check on arbitrary, dishonest or negligent dealing. A nice discrimination is needed in the exercise of the critical function; if exercised irresponsibly or too freely it may result in the discouragement of initiative; if it is not exercised actively enough bureaucratic trends will emerge.

It is through its members, who come from all parts of its area, that an authority can keep in intimate and constant touch with local aspirations and needs. This is of obvious importance in widely scattered counties and rural districts, but is often of importance also in large towns, many of which are not so much units in themselves as aggregations of units of varying size and character. The member's informative function is a two-way process: he is the channel whereby local feeling and knowledge are communicated to the authority, and whereby knowledge of the authority's actions and of the reasons for them passes back to the locality. He is the means also through which the citizen can make his complaint and have it investigated. Here local government demonstrably scores over central government. If you are dissatisfied with something that the local postmaster has done, or has not done, you can write to your Member of Parliament and ask him to take up the complaint with His Majesty's Postmaster-General; but probably you

continue to nurse the grievance, feeling that it scarcely warrants so drastic a step as writing a letter of complaint to an M.P.—and it has to be remembered that to many people writing an official letter is a formidable business, not to be undertaken lightly. On the other hand if your complaint is against the local schoolmaster or the condition of the road outside your house, it is usually easy enough to take the trouble to a local councillor. To the ordinary citizen his M.P. is remote and personally unknown, an object of something approaching awe or contempt (depending upon the party to which he belongs). Members of local authorities are not such *rarae aves*, but plainly are ordinary people whom familiarity deprives of that aura of remote dignity which surrounds a Member of Parliament. They can be met with in the street, in the bus, at church, or in the pub, and the casual contacts made in this way are invaluable in enabling members to keep in touch with local feeling and in giving an opportunity for grievances to be aired without disproportionate formality. Many of the complaints may seem to be petty—but not to the complainant; it is only too easy for the administrator in any business, public or private, to forget that an act which is to him a trivial detail of daily routine, exhibiting no unusual features, may be a matter of novelty and great moment to the individual upon whom the impact of the action falls (just as the patient has a more acute appreciation of the effect of the dentist's operations than the dentist himself, whose sympathy is blunted not by innate callousness but by familiarity

with the performance). Although many of the grievances seem to be, and perhaps often are, of little weight, an easy means for their ventilation is needed if administration is to be prevented from degenerating into the unconscious working of a dehumanized machine. Members of an authority have a special concern to see that the end for which administration exists, the well-being of men and women, is not lost sight of amidst a welter of administrative means.

Another function belonging to the members is to make the appointments of the officials holding the more important posts. Success or failure in performing this function will have a decisive effect upon the authority's work. That the central government has recognized its importance is proved by the growing extent to which the discretion of local authorities is restricted in the appointment of chief officials. In several cases the appointment has, by statute, been made subject to the approval of a Government Department, and certain officials—e.g. medical officers of health and sanitary inspectors—in order that they may be protected against improper pressure in performing their duties, have been made irremovable from office except with a similar approval. Perhaps it is regrettable that it has been thought necessary thus to curb the freedom of action of local authorities in appointing and dismissing their own staff, and no doubt the Government Departments concerned, by exercising their veto in arbitrary fashion, could deprive authorities of their proper responsibilities and inflict injustice on individual officials. However,

arbitrary action is not customary on the part of Government Departments (and would become even less common and, in a sense, less serious, if an Administrative Tribunal were established as advocated in Chapter II), the wide knowledge at the disposal of a Department might save an authority from making a thoroughly unsuitable appointment, and the restriction on the dismissal of certain officials whose duties may bring them into conflict with the personal interests of members is probably a wise safeguard. On the whole the limitations on the discretion of local authorities in appointing and dismissing their staff have not hitherto proved deleterious to local government.

To give the official proper liberty of action within his own sphere is evidence that the members have confidence in the soundness of their own judgement in having appointed him. Delay and confusion unavoidably ensue if the official is expected to get previous approval to his every action. 'The proper duty of a representative assembly in regard to matters of administration, is not to decide them by its own vote, but to take care that the persons who have to decide them shall be the proper persons.'¹ When Lord Moran, in the House of Lords debate on the second reading of the National Health Service Bill, said that 'for a whole decade every professional discussion of the hospital service has been dominated by the dread that hospitals would come under the control of local authorities', the feature of local authority control which he was fearing was undoubtedly the failure to

¹ J. S. Mill, *Representative Government*.

distinguish the expert from the lay function. But just as it is important that the member should resist the temptation to try to exercise detailed control, especially in technical matters, and should recognize the occasions on which he will be acting wisely to be guided by expert advice, so the official must refrain from dealing with affairs that properly are outside his scope; he must show intellectual integrity and objectivity in the expert advice which it is his duty to tender from time to time, and prudence will remind him that he must be prepared to justify (usually to an audience armed with that wisdom which is acquired after the event) everything that he does, however ordinary and trivial it may appear at the time when the act is committed.

The relationship between member and official thus requires that each shall have a just appreciation of the other's functions, and it calls for complete good faith on both sides. It is a far more subtle relationship than that between the American City Manager, who is responsible for executive action, and the City Council, which is responsible for policy and finance; and as it is more subtle so its potentialities are greater, offering wide scope for achievements born of a fertile union of lay and expert minds. It is the great merit of the committee system, which is the heart of the local body politic, that it provides opportunity for layman and expert jointly to make their contribution to the common weal. Admittedly the committee system has its dangers—it may become, through indulgence in unpurposive discussion, an exercise in collective

irresponsibility, or on the other hand merely a respectable disguise for the personal decisions of a forceful chairman or a persuasive official. 'Boards are screens', said Bentham, elaborating upon the weaknesses of government by committee. But, properly used, it is government by discussion at its best.

This problem of the relationship of member and official in local government needs to be seen as part of the larger problem of the respective function of layman and expert in every field of government and administration. It arises in the relationship of Minister and civil servant, of back-bencher and Minister, of shareholder and director in a business company, of council and senate of a university, of governors and headmaster of a school, of governing body and medical staff of a hospital, and indeed in every kind of government which seeks to reconcile some form of popular control with the expertise that an advanced stage of development makes essential. There is room for both layman and expert, even though the function of each cannot be neatly formularized. Given political sense and understanding a *modus operandi* can be found. It is another reminder that a system of government, however meticulously worked out and defined, cannot be better than the men and women upon whom the operation of the system depends.

The tendency towards increased specialization is shown by a comparison of the type of official now recruited with his predecessor of the nineteenth century. Then the administrator was usually a general practitioner, possibly a solicitor devoting part only of his

time to his public duties and the rest to private practice. Such an official was suited to a local government system whose functions were mainly regulative, but as the positive promotion of social services became predominant the employment of officials with specialist knowledge of this or that service (sometimes gained at the expense of any acquaintance with local government as a whole) became inevitable. Simultaneously with this increased emphasis on specialization the numbers of local government officials have increased greatly, salaries have improved (at one time those paid by some authorities were deplorably low) and the general educational standard of recruits to the service has risen, thanks largely to the expansion in secondary education brought about by the Education Act of 1902. The proportion of University graduates who find a career in local government is, however, still small, very much smaller than in the civil service. There, nearly every senior official has had a University education, though his vocational training may have been sketchy. In local government the converse is true; vocational training, gained mainly on the job, is thorough, but general education may be limited. Men of both kinds are needed in local government, and if it is indeed of the importance which I am suggesting, local government can reasonably look to the Universities for a more influential contribution than they now make. Their influence might go far towards counteracting the narrowness which results from undue and too early specialization in some one corner of the field. In 1934 a

Departmental Committee, of which Sir Henry Hadow was Chairman, included amongst other recommendations on the qualifications and recruitment of local government officers specific proposals for the introduction of University graduates into the service, but although the practice of authorities here and there may have been affected by their recommendations they had little immediate effect.

The steady improvement in conditions of employment is largely due to the sustained efforts of the National Association of Local Government Officers, the membership of which has now reached 170,000. The Association, founded in 1907, has not limited its aims to getting better service conditions. Wisely, it has concerned itself also with the improvement of local government through the better training of officials, and the national agreement between employing authorities and employees on conditions of service, negotiated on the employees' side largely by N.A.L.G.O., is a code of conduct for officials as well as a salary scale. In its concern for quality of workmanship the Association shows some of the characteristics of the medieval guild, as well as those of the modern trade union. So far it has not affiliated to the T.U.C., although there is a strong, and possibly growing, minority movement in favour of affiliation, largely on the ground that by frank recognition of its fundamentally common function with other trade unions and the logical sequel, affiliation to Congress, the influence of N.A.L.G.O. would be enhanced not only in its dealings with local authorities but also in

the conferences and other, less formal, exchanges of view which, by forming and guiding public opinion, play an incalculable but large part in determining the way in which the government of the country is conducted. The main objection to affiliation is based on the political manifestations of the T.U.C. It is undesirable, so the argument runs—an argument equally applicable to the civil service—for a body representing officials whose duty is loyally to carry through policies emanating from governments and authorities of different political complexions, to be associated with a body which in the eyes of most people, rightly or wrongly, is connected with one political party. This is one aspect of the problem of the proper functions of trade unions in a society which relies more and more upon collectivist action with the machinery of the State as its medium.

A minor, related, problem is the extent to which it is proper for an official to participate publicly in party politics. It has so far been a minor problem because good sense all round has, in general, prevented acute controversy from arising; obviously discretion is called for in marked degree on the part of any public official who takes part in political affairs, coupled with strict integrity in abstaining from using for party ends knowledge gained in an official capacity; but to deny to officials all right to indulge in politics would be to deprive a large, growing, and (one hopes) well-informed section of the population of a vital right of citizenship.

As a result largely of improved conditions of service local government has been able, during the last

generation, to recruit a better type of official; it is less certain that there has been any general enhancement of the standard of elected representatives. The number of suitable people available is not inexhaustible, and local government, because of the growth in the volume and complexity of its activities, now makes heavier demands on personnel than it formerly did. In some places it is probably true that the member of to-day has a better understanding of the nature of local politics than his predecessor of two generations ago, who was apt to bring to local government the philosophy of the small tradesman, but in other places where there was formerly, but is no longer, an educated and leisured aristocracy with no axes to grind (since they were a satisfied class) and with a strong sense of the duty concomitant with privilege, the general quality of membership of local councils has almost certainly deteriorated. It was inevitable that the conditions which created a leisured aristocracy should pass, and on balance the gain has outweighed the loss, but it is mere bigotry to pretend that there has been no loss. Probably the loss has been felt more in county government than in town government. At the present day it is often difficult, and sometimes almost impossible to find enough suitable men and women, with sufficient enthusiasm and leisure, to fill the council chamber benches, whether it be in Shire Hall or Town Hall. *This is as urgent a problem as any with which local government has to grapple.* However good the machinery of government may be, the quality of government depends, in the end, upon the

men and women, members and officials, who are the human agents. If they are good passably good government is possible, despite imperfect machinery; but if the human agents are poor, unsatisfactory government is the inescapable consequence, however perfect the machinery may be. Current discussion focuses on the structure of local government rather than its personnel, understandably enough because structure can be discussed objectively, in terms of hard facts and figures, whereas a subjective element is bound to enter largely into any discussion of the general qualities of a numerous and heterogeneous group of persons, about which the evidence must necessarily be less definite. Because the discussion of machinery is much easier, this other, less tractable but even more important problem receives less than its due attention.

The reasons why enough good elected representatives are hard to get are pretty generally understood, but it is worthwhile to summarize them. For a start many people display a reluctance to take any part in what is felt to be the unsavoury business of local government. The local council is held in contempt, but without any understanding that a council which is no credit to itself likewise reflects discredit on the people whom it represents. Ogden Nash has neatly described the attitude of these aloof critics:

They have such refined and delicate palates
That they can discover no one worthy of their ballots;
And then when someone terrible gets elected
They say, 'There, that's just what I expected.'

Typical of this irresponsible attitude are vague allegations, made in casual conversation, of corrupt practices in local government—everyone must have heard some such ill-defined charge at one time or another. Fortunately, corruption is not a major problem in modern local government. The legal provisions against corruption are, rightly, severe, and if evidence exists to support an allegation of this kind there is a moral duty to set the law in motion, just as there is an equally compelling moral duty to refrain from rash accusations where no supporting evidence exists. ‘He that accuses all mankind of corruption ought to remember that he is sure to convict only one.’¹ Honest criticism, provided it is based on facts, is a healthy process, but cheap and clever gibes about local government are a mark of anti-social irresponsibility. No citizen has the right to consider that active participation in local government is beneath his dignity.

Amongst those who secure election some, because their interest in local government springs from the wrong motives, will never become good councillors. Some psychologists would doubtless argue that the subconscious motive is always the same, the desire to exercise power, but in practice those members of authorities whose aim is to contribute something to local government distinguish themselves clearly enough from the smaller number whose object is to extract from it some selfish advantage, whether it be material, such as an increase in business, or

¹ Burke.

immaterial, such as an enhancement of personal dignity.

Another obstacle, where elections are fought on party lines, is the difficulty for a man who has no strong party leanings, or who sees the weaknesses as well as the strengths of his party's policy—the very man who is likely to prove invaluable in local government because he is free of the taint of prejudice and partisanship—to get sufficient support to secure election. A party, naturally, will always prefer the candidate who endorses its policy holus-bolus, or who at least refrains from allowing any doubts which assail him to appear in public. To reconcile honesty of judgement with party loyalty may sometimes impose a severe strain on intellectual integrity.

Again, the danger exists, potential rather than actual at the present time, that the restriction, by detailed central government control, of local autonomy may result in local authorities being left without functions of a kind to attract the participation of men and women of intellectual ability. Local government has not yet been reduced to an entirely subordinate position but it should be remembered that one amongst the many unwholesome results of circumscribing too narrowly the freedom of local authorities would be the impossibility of retaining the active interest of those public-spirited men and women whose participation gives to the local government system its peculiar merits. If their participation ceased so would the *raison d'être* of the system.

But most serious of all the obstacles to the election of the fittest people as members of local authorities are the economic considerations which debar many from an active part in local government. The conscientious member must devote much time to his public work; the number of men and women who have the leisure to enable them to do so is small. In consequence an undue proportion of members of local authorities are drawn either from those who have retired from active life, or from the self-employed classes. Few local authorities represent a fair cross-section of the community, either in point of age or economic standing.

Not merely are meetings often held during working hours, so that the ordinary working man is willy-nilly excluded, but also a seriously felt concern for local government calls for more than attendance at council meetings. Meetings of committees and of sub-committees, conferences, visits to this housing estate or that school, all take up time. Certainly evening meetings go part of the way towards overcoming these difficulties (although they do not help shift-workers) but evening meetings are impossible where the members are drawn from a wide area, they result in important public business being transacted after the end of the day's work, when wits are rarely at their sharpest or judgement at its soundest, and, if very frequent, are a burden on the staff whose own work is likely to suffer in consequence. Some enlightened large-scale employers allow any of their employees elected to a local authority paid time off for their public business,

and doubtless this practice will grow. But it is not a practicable solution for the small-scale employer—the shopkeeper with his one or two assistants, the jobbing builder with his couple of men, the garage owner with his one mechanic and a boy; to lose three or six men out of a thousand on two days a week is nothing, but to be deprived of half of one's staff is an involuntary sacrifice which the public has no right to force upon any employer.

The facile solution that members of local authorities should be paid a salary is sometimes put forward. Members of Parliament are salaried, so why not those who sustain the burden of local government? But the comparison is not a fair one, for the duties of a Member of Parliament occupy most of his time and are his principal occupation, whereas the essence of membership of a local authority is that it is a part-time service, to be undertaken alongside, not in substitution for, the ordinary day's work. There are also other objections to the salary principle, objections so forcible that to summarize them in a very few words is sufficient: (i) it offends against the principle that participation in local government should spring from motives of altruism; (ii) if the salary were small it would not remove the difficulties that now exist, and if it were large it would attract the political adventurer; (iii) failure to secure re-election, since it would cause loss of livelihood, would be so serious that the sitting member would be sorely tempted to use the socially undesirable means of courting public favour that are open to those who control local government; (iv) the

clear distinction between the voluntary lay member and the paid expert official would be lost; and (v) for the sake of economy councils would doubtless be reduced in size, with the result that fewer people would have an opportunity of taking a continuously active share in their own local self-government.

The case against the salaried member is conclusive, but some means must be found so that the ordinary working man and woman can be brought in to give to local government the breadth of contact which is vital. The suggestion, emanating from more than one well-informed source, and in particular from the Government Committee, presided over by the Master of Balliol, which reported in 1947, that some payment should be made for loss of earnings caused by attendance at meetings and the like, is the wisest solution that has so far been propounded, and has been given statutory force in the Local Government Act of 1948. It is not a perfect solution; if attendance at meetings is found to be pleasanter and not less profitable than work in the office, the shop, the mine or the factory, an unnecessary multiplication of meetings may follow. However, this possible shortcoming, which a live public opinion can guard against, is of small moment compared with a state of affairs in which potential members of local authorities are permanently excluded through poverty. Unfortunately, the new Act will not make it any easier for the key-worker to be spared from industry, for the small shop-keeper to allow his one assistant two days off every week, for the mother to leave her young family,

or for the manager to neglect his office for the day. People of the ability required for local government are precisely those who, because of their ability, are in positions which make it impossible for them to undertake fresh commitments. The problem of attracting the right people into local government as the citizens' representatives still awaits complete solution.

Whatever solution may be proposed it cannot be too strongly emphasized that a constant stream of capable, thoughtful and informed men and women coming forward with unselfish willingness to devote time and energy to furthering the welfare of their fellows—all without hope of tangible reward or expectation of gratitude—is the life-blood of local government. Yet in discussion of the reform of local government the personal element receives far less consideration than the structure; the skeleton is important, but the flesh that clothes it, and the brain that governs and the spirit that informs the body are even more important. The elected representatives not only supply these latter qualities; they are also the means whereby the impetus is transmitted to keep the machine operating, for as J. S. Mill pointed out: 'In politics as in mechanics the power which is to keep the engine going must be sought for *outside* the machinery.' The power which keeps the machinery of local government moving is to be sought in the interest and enthusiasm of the people whom it represents. We must now turn to the ultimate problem of whether that power is adequate to the task, and whether it is being maintained or is diminishing.

CHAPTER VII

PUBLIC APATHY

REPRESENTATIVE democratic government, whatever particular form it may take, depends for its vigour upon a subtle interaction between governors and governed, that is between those in whom the power of government is immediately vested, and those from whom it is ultimately derived. In theory it is easier for that interaction to be close and continuous in local than in central government. In practice the contribution made by the governed to their system of local government, and the public interest shown in local authority affairs, are exiguous. One measure of public interest is the proportion of electors who exercise their minimum moral duty of voting. The proportion is small, not often exceeding 50% and sometimes falling to less than 10%. Even between places enjoying apparently similar conditions it varies widely. Unfortunately, there are no officially published up-to-date statistics, but figures for 1945 were given in the Registrar-General's *Review for 1945*, issued in 1948. The following statistics are fairly typical; the only basis of selection was that Press and other reports from which the figures could be compiled happened to be readily available (the 1945 *Review* had not then been issued).

At the first post-war election of the London

County Council in 1946, seven of the 61 divisions were uncontested; 2,020,301 people had the opportunity of voting, and 534,127 (26.4%) did so. At the Metropolitan Borough Council elections in November 1945, out of 297 wards 39 were uncontested; the proportion of the electorate in the contested wards who actually voted was 35%. In November 1947 the percentage of electors who voted at elections in the Lancashire county boroughs varied from 47 to 65 and in the non-county boroughs from 44 to 74; at the same elections the percentage for the Essex boroughs averaged 40, although in Dagenham it was as low as 25; in Ramsgate it was 44, Reading and Bristol both 52, Burton-upon-Trent 53, Derby 56 and Wakefield 58. At the Kent County Council elections in 1946, seven out of 55 urban divisions and eight out of 22 rural divisions were uncontested, the average proportion of electors who could and who did vote being, both in urban and rural divisions, 21%. Results of the 1937 elections for four sample areas, Cambridgeshire, Nottingham, Devon and the West Riding of Yorkshire, analysed in the March 1947 issue of the *Fabian Quarterly*, showed an average county borough poll of 35%, non-county borough 27.5%, urban district 44%, rural district 33%, and county no higher than 11%.

These figures are depressing enough, but they are probably an exaggerated index to the degree of public interest in local government, because some votes are cast from a sense of personal or party loyalty and with little interest in or understanding of

the issues which the election raises. The proportion of uncontested seats, although still large in some rural areas, is probably falling, mainly as the result of the organization of local elections on party political lines. Whether this results in any greater interest in local government as distinct from party fortunes is, perhaps, debatable.

The widening of the franchise in 1945 to include all adults and not merely adult rate-payers and their spouses has apparently had little quickening effect upon the electorate. No doubt military service and ignorance of local affairs resulting from long absence have prevented many men and women from exercising their newly gained suffrage, but whatever the reasons may be there is little sign that the infusion of this new blood into the electorate has had much enlivening influence. The dangers of apathy at elections were well stated by John Stuart Mill: 'Representative institutions are of little value, and may be a mere instrument of tyranny or intrigue, where the generality of electors are not sufficiently interested in their own government to give their vote, or if they vote at all, do not bestow their suffrages on public grounds.'

It is well to be clear about both the importance and the limitations of the influence which the people exert on the process of government. The label 'democratic' having been, often somewhat loosely, attached to a system of government, the assumption is then commonly made that it must therefore be a system in which the people actually govern. But

representative systems have to be adopted precisely because it is physically impossible for the people as a whole to govern. Their function is to control the business of government, not themselves to do it. The controlling or limiting function which Parliament once exercised over the King is now exercised over Parliament (and therefore over the Executive indirectly) by the people at large. The test which any Government must ultimately apply to even its most cherished scheme is, Will the people stand for it? Only in rare instances does the general will of the people manifest itself in a positive way, although in deeply felt crises, such as the outbreak of war with Germany in 1939, the repudiation of the Hoare-Laval proposals in 1936, or the abdication of King Edward VIII in 1937, there may be a spontaneous upsurge of emotion which, for the moment, positively determines the course that government must follow. However, the influence of the public on government is normally a negative one, an indication of the boundaries beyond which action, however originating, will not be tolerated, and beyond which no wise Government will choose to pass. Public opinion may change, it may be cultivated by honest or by guileful means, but unless government acts within the limits it imposes, tyranny or revolution must ultimately ensue.

Public opinion is, of course, expressed in other ways besides at the polls. It would be comforting if we could aver that it was exercising a continuous and beneficial influence on local government, but to do

so would be to give utterance to a pious wish, not to state a fact. It is true that a member of a local authority going about his daily business or recreation can learn the minds of his constituents with an ease which is impossible for the more exalted representatives at Westminster. It is true that citizens, individually or in groups, do sometimes feel strongly enough about a local issue to organize a public meeting or demonstration, and sometimes a local authority may itself take the initiative in focusing public attention on some problem of outstanding importance. It is true also that a few people take advantage of the fact that meetings of local authorities are open to the public (although their reasons for attending might, if known, be found to be unflattering to the authorities concerned), and that local government affairs find some reference in the local newspapers. But these are exceptions to the rule, and it would be untrue to pretend that there is any continuous and lively public interest in local government. To the ordinary citizen an administrative action is as unpredictable and unfathomable as an Act of God, and he feels no more sense of control over or responsibility for the one than the other.

In sixteenth- and seventeenth-century England, when Parliament failed to exercise its limiting function vigorously, absolute personal rule followed; now, if the limiting function which rests with the people operates feebly, bureaucracy and centralization will be the result. Where bureaucracy and centralization flourish government ceases to be

flexible, failing to mould itself to the will of the people, and a hardening of the arteries of the body politic sets in, with, ultimately, fatal effect. Political institutions must be constantly adapting themselves to changing conditions. Rigidity, such as results from strongly centralized government, inhibits change. The failure to escape from this vicious circle was a prime cause of the breakdown of the Western Roman Empire. The following paragraph from Bury's *History of the Later Roman Empire* has a grimly topical flavour:

We find the State threatened with the danger that many laborious but necessary occupations would be entirely abandoned, and the fields left untilled for lack of labourers. The only means which the Emperors discovered for averting such consequences was compulsion. They applied compulsion to the tillers of the soil, they applied compulsion to certain trades and professions, and they applied it to municipal service. The results were serfdom and hereditary status. The local autonomy of the municipal communities, the cities and towns which were the true units in the structure of the Empire, had been undermined in some ways under the Principate, but before Diocletian no attempt had been made to impose uniformity, and each community lived according to its own rules and traditions. The policy of uniform taxation, which Diocletian introduced, led to the strict control of the local bodies by the Imperial Government. The Senates and the Magistrates became the agents of the *fisc*; the municipalities lost their liberties and gradually decayed.

What was the cause of the lack of interest in local affairs that made it necessary for the Emperors to

apply compulsion to municipal service? Was it because, under the strong tendency towards centralization, the municipalities were losing their liberties so that municipal service was ceasing to have significance? Or was lack of municipal interest the cause of centralization? Or are we to assume that neither was the cause of the other, but both were symptoms of an underlying malaise?

If, leaving aside the problem of the decline of the Roman Empire, we seek the causes of present apathy towards local government in England, several at once thrust themselves forward.

First, there is ignorance. The scope and methods of local government, the multitudinous business it controls, its achievements, its failures and its problems, and the rights and duties of the citizens towards it, are little understood. This ignorance is, in part, the price which we pay for an educational system which, in the past, has been run on the cheap. No doubt future generations will be better educated, but there is no comfort to be derived from the hope that local government can be left in the safe keeping of their greater understanding; before they come to man's estate, local government, at its present rate of progress, will have ceased to exist as an effective part of the country's life. Apart from the fact that, in any case, the political education of children, necessarily inexperienced in the affairs of the world and ungrounded in any kind of philosophy, cannot be carried far, the problem is here and now, one which must be grappled with by the present adult

generation. The Act of 1948 contains in its Miscellaneous Part two sections which enable local authorities to set up information centres, to publish information and to arrange lectures, discussions and exhibitions on local government questions. These are useful provisions, so far as they go, but to rely on them entirely would be as useless as to look for the source of energy within the machine itself.

In this business of education in local government, the Press (and still more, perhaps, the cinema) if it were on the side of the angels could be a powerful coadjutor. But whether it be that editors under-rate their readers' interests, or that many of the journalists employed by local newspapers are themselves politically uneducated, or that the only way to sell a newspaper is to offer material which appeals to men's baser tastes, the fact remains that a good deal of the reporting of local government affairs in the newspapers is puerile. Shortage of space multiplies the difficulties of the editor's task, but when all allowances are made it must be admitted that often there is not even the pretence of a sober and reasonably balanced account of council meetings, which constitute the bulk of local government newspaper reporting. Trivialities are seized upon, important issues are ignored, inaccuracies are common, and innuendoes are sometimes made quite unwarranted by the facts. It is right that the Press should gather all the news it can, bring to light anything improperly concealed, and criticize where it thinks that criticism is due. These are important functions, to be exercised

with a sense of responsibility which is, alas, often wanting. Of course the newspapers are not any worse in this respect than the average citizen; the pity is that they are not better. If the profession of journalism seriously took the matter in hand, more could be done by the newspapers during the next few years to improve the quality of local government than through any amount of Parliamentary legislation.

Sometimes the way in which a local authority conducts its business dulls public interest. Some authorities behave as though fearful that news of their actions may reach the very people on whose behalf they are acting. The Press, instead of being treated as a potential ally, is looked upon with suspicion, its work made as difficult as possible, and every opportunity taken of 'going into committee', so that, without breach of the letter of the law, Press and public may be excluded from meetings. To insist that all public business should at all stages be conducted in the public forum would be to introduce into municipal government some of the less profitable features that mark present-day international diplomacy, but for important matters to be settled in secret and for decisions to be announced whilst the reasons for them remain unknown stultifies the whole existence of democratic government. Even where a council does not adopt the expedient of 'going into committee' it may nevertheless allow the practice to develop of limiting the business conducted in public to the formal confirmation of things already decided, after private debate, at meetings of

committees, so that the business transacted in public is scarcely, if at all, intelligible.

Not all local authorities, by any means, shrink from the general gaze. Some woo their public diligently, regarding the cultivation of public relations as an essential part of their work. Public relations committees and officers are appointed and no opportunity is lost of bringing home to the citizen the importance of local government, the problems which confront it, and the manner—indeed, the able manner—in which they are being tackled by his local authority. In fact there is a danger that in avoiding the Charybdis of hugger-mugger the authority may come to grief on the Scylla of self-satisfied advertisement. There is no doubt that public relations officers, in local government as in other enterprises, do succeed in maintaining an often surprising objectivity, but it is hard for an officer whose business is to interpret his authority's actions to the public not to become, on occasion, their apologist. The appointment of special public relations committees and officers may, too, tend to cause other committees and officers to overlook 'the fundamental principle that publicity should be an integral part of administration'. Anything that made more remote the connexion between public and administration would be harmful. There is a further fundamental danger in an active public relations policy undertaken by a local authority: it may obscure the fact that whilst all information should be made easily accessible to the public, the initiative must still rest with the citizen,

and that his function is not to submit passively to the administration of suitable doses of knowledge by enlightened authority. An initially efficient public relations policy may in time become a bro-mide; on the other hand, the lack of any public relations policy may have much the same effect, for the uninformed citizen cannot take any active and useful part in local government. Provided that the existence of the potential dangers is realized in advance they can be avoided, and certainly they are not likely to cause local authorities to hide their lights under bushels when the present situation and needs are as urgent as appears from the following paragraph from the *Interim Report*, published towards the end of 1947, of the Consultative Committee on Publicity for Local Government:

The Committee is agreed however that much more needs to be done to stimulate publicity at both national and local levels. The problem is mainly one of widespread lack of knowledge leading to apathy. Publicity ought, therefore, to be directed to the mass of the population, through as many agencies as are available, and as persistently as possible. . . . Information ought to be spread at all levels. For long-term education, the schools are the most effective medium of all, but although special regard must be paid to this section of the community, publicity which will offer a prospect of results within the next few years must be addressed to the population as a whole.

Public interest would be greater if there were a more acute perception of the responsibility of the

local authority to its electorate. For the major services, in which local authorities have become more and more the junior partners, or even the agents of the central government, there is a twofold responsibility, to the electorate and to a Government Department. The latter is so much the more prominent—the Boundary Commission *Report* for 1947 comments upon ‘the increasing tendency of Parliament to hold Ministers and their Departments responsible for every act or omission on the part of a local authority’—that the twofold nature of the responsibility is, indeed, often scarcely remembered, and in practice the watchdogs of Whitehall are so assiduous in their duties that the local watchdogs feel that it does not matter if they close an eye. What would happen if central control and direction were relaxed? Mistakes might, for a time at least, become more numerous, but as a result the direct responsibility of the local authority to the men and women whom it represents would be apparent and there would certainly be increased local interest—sometimes angry interest—in local government affairs. The fact that under central government tutelage it operates with a fair modicum of competence tends to discourage public interest in local government. Unless it aims sometimes at outstanding achievement, even at the risk of falling into error, local government will not capture and hold public imagination and interest.

All this assumes that people desire to have a responsibility for the way in which their affairs are

conducted. There is, in government and in other things, a good deal of evidence to the contrary, that men are glad to shift the burden of responsibility. Many examples could be given: it is noticeable that at assemblies representatives are tending to become delegates, unwilling to accept responsibility for any utterance outside the terms of their 'mandate'; the game of 'passed to you, please' is by no means the private preserve of civil servants; a deliberative body breathes a sigh of relief when it finds that it can postpone a decision, or better still leave it to some other body; the individual shuns thought like the devil, and feels frustrated and in a sense defrauded if he cannot place the responsibility for his beliefs and actions upon some superman or group of supermen who can offer a simple nostrum for all his economic, political, social, philosophical and religious doubts. For centuries men have striven to secure control over their own lives and the right of responsibility for their own actions; having gained it many are fearful of their newly won freedom and are glad to leave the shaping of their destinies to others. Is this willingness to evade responsibility more common than once it was? Probably not; probably the great majority of men have always been willing to let others do their thinking and deciding for them, but the question has never before arisen in its present significant and acute form. In an aristocratic or oligarchical political system such an attitude of passivity, as a condition essential to quiet government, is praiseworthy; in a democracy it is disastrous.

Democracy cannot survive the withdrawal of the people's interest, it cannot exist unless, in every citizen, there is a sense of personal and social responsibility. That this very recent experiment of democracy offers a practicable form of government in a society such as ours has yet to be demonstrated; that it may prove so we must have faith, for no other form of government offers men the chance of working out their own salvation. But neither in means nor in purpose is democracy compatible with public apathy towards government.

Inevitably, when the modern nation-state has become a unit so huge in size, so immense in power, so universal in activity, and so complex in organization, the individual is lost in its vastness and can feel but a remote responsibility, at the best, for its actions. Herein lies the attraction of local government, that it gives each man and woman an opportunity of participating immediately and continuously in the shaping of their own social order. But until there is a more general feeling of personal pride in the achievements of one's village, town, or county, and of personal shame for its shortcomings, local government will not become the live force which would enable us to widen the field of collective action, as present-day conditions compel us to do, whilst avoiding the evils of *étatisme*. How the required sense of personal responsibility can be inculcated is not primarily a matter for local government, but for philosophers and priests, statesmen and educators.

And here, having touched upon the profoundest of all problems of modern government, we must leave the subject with the perennial truth of J. S. Mill's dictum that 'If we ask ourselves on what causes and conditions good government in all its senses, from the humblest to the most exalted, depends, we find that the principal of them, the one which transcends all others, is the qualities of the human beings composing the society over which the government is exercised.'

